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Palaver, Ulmen. Pan: Reading Schmitt's *Political Theology*
Campbell: The Fiscal Crisis of Post-Communist States
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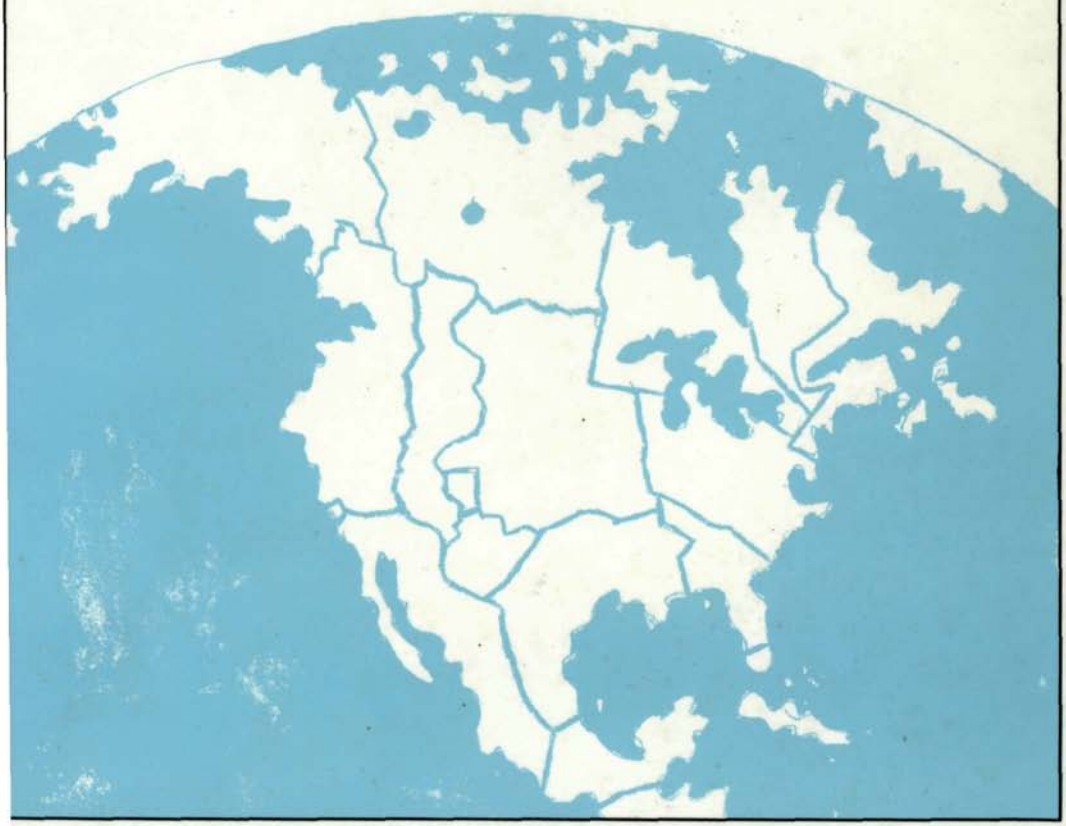

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Telos

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*Quebeckers, Mohawks and Zulus: Liberal Federalism and Fair Trade**

Frederick Johnstone

Social Nature: Placeless Logic and the Logic of Place

All over the world, from Europe to Canada, from South Africa to Tibet, the complacent post-war consensus of liberal-Marxist cosmopolitanism is facing heretical challenges to Enlightenment assumptions of abstract universalism. Old realities of group and place are just not going away. In Europe, Maastricht mega-statism is on the rocks, while in North America, NAFTA news about joining Mexico is about as popular as joining East Germany. Canada is trying to accommodate Mohawks and Quebeckers, and is handing over one fifth of its land mass to the Inuit in a new place called Nunavut. In South Africa the ANC is trying *not* to accommodate Zulus, and China is trying to keep the lid on Tibet. Meanwhile, the globalization steamroller of free trade is squashing things flat, from French cheese to Canadian jobs, and people who resist this Sell-Your-Mother-For-The-Cheapest-Price philosophy are labelled "foolish old peasants," for wanting to protect their local worlds.

But resist they do. The brash agenda of political and economic universalism comes up against a stubborn obstacle: the foolish people. An old tension is still in play, between localism and globalism, individual and group, particular and universal, placeless logic and the logic of place. The old peasants are back in the picture, and the real fools turn out to be those who thought they could ever be rid of them.

While Danes demur, the experts pontificate. "No change to the script!" They still claim to know what is best and to be able to tell everyone what

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* This is a continuation of an earlier article. See my "Quebec, Apartheid Lithuania and Tibet: The Politics of Group Rights," in *Telos* 85 (Fall 1990), pp. 56-62.

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to do. The irony is not lost on old peasants in the Canton of Uri. Imagine trying to tell them where to go. They have just observed the 700th anniversary of Swiss democracy and they remain to be convinced about the wisdom of handing things over to the Brussels bureaucrats or turning the Alps into ten-lane free-trade highways for ten-ton trucks.[1]

Camille Paglia rethinks "the West" as a dialectical drama of chthonian and anti-chthonian forces in which the "hard Apollonian line of Western separatism" transcends but never fully escapes the all-encompassing ooze of mother-earthly Dionysian flux.[2] After decades of "social constructionism," nature is back in the picture.[3] Paglia's bold critique of the Great Escape has political implications. The Willendorf-Nefertiti tension, between chthonian connectedness and Apollonian separatism, is not just about art. It is the aesthetic expression of a basic political tension between self and tribe, humans and nature, person and place, logic and landscape, de-natured mind and nature-place-group.

This tension is still in play. The jet-thrust of Nefertiti head-power, of Apollonian flight, tries to escape the earthy pull of gravity, the chthonian pull of nature-place-group. Modernism de-natures mind. The precious ballet of post-modernism daintily sidesteps the ooze. But it is rudely shocked by Serbian guns, disintegrating states, civil wars. The stage fills with Zulu spears, Mohawk Warriors, medieval flags.

In the middle of it all, as usual, the decent folk from Canada are keeping the peace, sitting in airports waiting for mortar shells to land on their heads in half-baked UN peace-keeping missions, while the UN walks backwards into a new kind of role: peace-maker-among-thugs. The Khmer Rouge thugs, the Mogadishu thugs, the ethnic cleansing thugs, all make a mockery of the old niceties of peace-keeping.[4] Eyeless in Bosnia. What to do? The Canadian general, back from Sarajevo, tells it

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1. Old peasants of Schwyz and Uri, Declaration of 1291, and Referendum of 1992. In the Referendum of Dec. 6, 1992, 16 of 23 Swiss Cantons said "No" to closer ties with the EEC. For an account of Swiss particularism, see Willi Geutschel, "Switzerland, for Example: 700 Years and Still Going Strong," in *Telos* (Summer 1991), pp. 155-186.

2. Camille Paglia, *Sexual Personae: Art and Decadence from Nefertiti to Emily Dickinson* (New York: Vintage, 1991).

3. See, for example, Paglia's review of Germaine Greer's book on menopause, in *People* magazine (Nov. 30, 1992).

4. The 1991 Cambodian Accord sent a nice message to the Khmer Rouge killing-field gang. "Don't worry, stick around, you're okay. Perhaps you can even take over again. After all, what is a million dead Enemies of the People? A Crime against Humanity? No, that's dead Jews. So don't worry, be happy." Who designed this accord? The Idi Amin Fan Club? Unfortunately dead Enemies of the People (unlike certain other dead groups) have no one to stand up for them. What Pol Pot needs is not a Peace Accord but a Wanted Poster.

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like it is, on US prime-time. His words are echoed later by the UN chief-of-mission to Somalia, who resigns in protest. "If you are going in, go in strength, secure a beachhead, negotiate from strength. Forget all that soft-headed do-goodism or you'll get your head blown off."[5]

Crisis explodes old UN assumptions, about peace-keeping-with-permission, non-interventionism, existing states. While the UN dithers, the National Geographic changes its world map six times in six months. Meanwhile, back in Mogadishu, the teenage toughs in homemade tanks wait to see if the do-gooders are finally getting their act together. And sitting in the airport, writing home to small Ontario towns, the peacemakers agree: geography lessons were never quite like this at school. Indeed. People come and go, talking of . . . capitalism and socialism. . . ? . . . No, Armenians and Kurds! And CNN is there. "This is a place called Slovenia. You may not have heard of it before. But now you have." Landscapes turn out to be social. The Lake of Two Mountains erupts in sound. "We are the Mohawks of Oka, and this is what it means to us to be of this place. (So don't go on building this golf course on the graves of our ancestors, or we'll blow you up.)" People turn out to have landscapes. The voice of the Innu is heard in the land. "This is this place and we are us and this is what it means to us to be here." Nature is back in the picture. In a new place called Nunavut something old becomes clear: social nature, as a given, grounded, pre-Enlightenment fact.

More names to learn, like Boipatong and Inkatha, as the decent chaps move on, to Station Zulu. The vast anti-apartheid military-industrial complex creaks and groans into the harsh new-world-order glare of a post-apartheid stage on which the wrong things keep happening. Black civil war? Script writers are confused. The bit players seem to be taking over the show. And the global audience is not sure what to do. The old morality play is over, but the Greek Chorus is still standing around.

After years of heavy-duty anti-apartheid DraiNo, things should be running fairly clear. But dazed plumbers throw up their hands. "Don't ask me about the Zulus." What was supposed to be happening is not happening and what was not is. Is there a blockage in the pipe? Decades

5. Canada is the world's leading peace-keeper and the only country that has participated in every UN peace-keeping mission since the first one in 1947. With less than 1% of the world's population, Canada has been doing 10% of the world's peace-keeping and is currently involved in 13 such operations. One Canadian, (Sgt. Michael Ralph, a Newfoundlander), was recently killed in Bosnia, and another has written a popular song about the United Nations Protection Force (UNProFor), called "We are the UNProFor," about how "We go to countries/That are at war/And try to make their world/A better place/We leave our families/And so much more/And go to lands of atrocities/We work and sweat and even die/God I wonder/ I wonder why. . . ."

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of double-think on Africa has not helped. The demonization of apartheid meant the usual round of taboos and victimology. The writing was on the wall, the message was clear: Forget tribalism in Africa, black-on-black violence, black human rights abuse, political persecution, aid scams, female circumcision etc. — talking about that is cultural imperialism. Criticize white dictatorship, but lay off everything else. Whites sticking it to blacks is an outrage but blacks sticking it to blacks is okay. Whites denying blacks votes is an outrage, but blacks mutilating black girls is okay.

Everyone could point the finger. Places like Malawi could point the finger. Everyone could sign solemn resolutions against apartheid. A strange assortment of black dictators, one-party-states, emperors-for-life, colonel-torturers and clitoris-cutters could make speeches about human rights. The Organization of African Unity turned into a bizarre kind of Black-Dictators-Against-Apartheid Club and double-think on Africa became double-think about the ANC. This does not mean the anti-apartheid crowd simply became cheer-leaders for the ANC. But with the ANC acting as a government-in-exile, led by a martyr/saint, there was not much questioning of the party line, on national liberation, socialist change, a unitary state, the end of tribalism — or about black violence as just an apartheid issue, a Zulu problem, a white plot.[6]

The party line on group rights is understandable. Ethnicity was indeed badly compromised and manipulated by apartheid. Is not ANC universalism the progressive antidote to a poisonous past? In some ways yes. But as UN soldiers from Ontario head for Station Zulu, questions mount. What exactly is going on? Who should be helped now: just the ANC alliance, or other groups as well? And what about the party line on issues such as a unitary state? What can be said about federalism and ethnicity? Can one say one thing to Mohawks and another to Zulus? Or is that a double standard on human rights? Can Canadians hand over a fifth of Canada to the Inuit in a new place called Nunavut but not question the party line on the Zulus?

The global anti-apartheid bandwagon thus comes to an awkward stop. There is a more critical stance, about the past, about the future, about "the good guys." This is evident for example in the recent controversy about the ANC camps. What is significant here is not so much the confirmation of earlier allegations of ANC abuses but the questioning of the party line (and of the absence of that by anti-apartheid

6. For example, see Rupert Taylor, "The Myth of Ethnic Division: Township Conflict on the Reef," in *Race and Class*, Vol. 33, No. 2 (1991), which defends "the idea of a unitary South Africa" against various federalist heresies.

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media in the past.[7] And it is evident in a more reflexive appraisal of the Western anti-apartheid movement, such as the Adam-Moodley report, which in its general themes transcends its Canadian focus. Predicated on a "tough and hard-nosed realism," which seeks to "substitute sober analysis and strategic pragmatism for moral outrage," while eschewing "the abdicating relativism of postmodernists" and warning that "the task of outside intervention is not to select winners or losers, but to facilitate democratization" in a process including "all legitimate political actors." It criticizes the politically correct fixation on the ANC, the national group-therapy functions of anti-apartheid in the West, and the image-enhancing DayGlow effect of global devil-bashing (i.e., Canada may not have made much difference to apartheid, but anti-apartheid certainly made a difference to Canada).[8]

From Sarajevo airport to Station Zulu, old certainties about modern progress are fading fast, as ethnic and regional forces remake the world, redefine the UN, and renew debate about the social order. From the Lake of Two Mountains to the Canton of Uri, old peasants question the party line, and modern experts are confused. Nature may be back in the picture again, but is this not dangerous stuff? Does not nature-place-group sound like "nature-blood-tribe" or "fatherland-fascism"? This is a dangerous trail. It comes uncomfortably close to racism, Balkan rage, ethnic cleansing, genocide. On the other hand, the universalistic road has problems of its own. The hegemonic steamroller of homogenizing universalism has been clanking along, squashing things flat. The driver may not care, but the flattened people do. Populist resistance indicates underlying problems too long ignored by modernizing elites. The challenge is to stake out a compromise position which transcends but retain universalism, rather than simply inverting it into its opposite: xenophobic chauvinism and autarchic protectionism. Politically, it means liberal federalism and, economically, fair-trade.

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7. *Telos* was one of the first journals to publicly ask the question "What happened in Quatro?" See Johnstone, *op. cit.*, p. 61. In October 1992 a commission of inquiry reported that prisoners in ANC camps were tortured and killed, and it denounced ANC officials for acts of brutality.

8. Heribert Adam and Kogila Moodley, *Democratizing Southern Africa: Challenges for Canadian Policy* (Ottawa: Canadian Institute for International Peace and Security, 1992), pp. 3, 10, 19 and 60. This report is hardly politically correct — especially when it describes anti-apartheid meetings in which a "bewildered Canadian church audience" suddenly found itself "in the middle of South African struggle antics," with readings supplied by the "Socialist Challenge Section of the Fourth International in the Canadian State," music by the "Euphonious Feminist Non-Performing Quintet" and Canadian Indians telling ANC leaders about the struggle of First Nations in Canada for ethnic homelands, group rights and separate development.

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Federal Compromise: Liberal Federalism or Federal Populism?

Federalism is the classic political compromise between individual and group. It makes concessions to groups. But this can be dangerous to individuals. So it has to be "liberal" federalism, if individual rights are to be secure. Groups and regions can be recognized in ways that a unitary state does not, but there must be paramount concern for individual rights — this is the hallmark of Western democracy. The idea of human rights is perhaps the greatest accomplishment of Western civilization and it would be foolish to take it for granted. Was that not, after all, the main legacy of Auschwitz: to establish once and for all, through the UN, the idea of universal human rights?

This needs to be remembered in the current debate about federalism. This is a problem, for example, with Paul Piccone's "federal populism": an almost total silence on human rights.[9] Piccone has taken the discussion a long way, and recognizes the fascism problem. But his devastating critique of universalism is in danger of going too far in the opposite direction. Unlike liberal federalism, his federal populism provides no constitutional or institutional mechanisms to counter this problem. He unduly conflates the critique of liberalism with that of the unitary state, so that a progressive defense of populism ends up being based on a questionable (and typically left-anarchist) underestimation of the achievements of the liberal state. This is not logically necessary or politically wise. In fact it misunderstands the nature of the federal compromise. Liberal federalism does not entail the repudiation of universalism per se: if it did, it would not be a compromise but a reversal into tribalism. What is at issue is not universalism but how things are balanced. Liberal federalism balances the universal and the particular, individual and group, liberalism and populism. Does federal populism? Where is the liberal side of the equation in federal populism?

With the present resurgence of ethnic cleansing, neo-Nazi violence and Moslem-Hindu bloodbaths, this is no idle issue.[10] The left-anarchist

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9. Paul Piccone, "The Crisis of Liberalism and the Emergence of Federal Populism," in *Telos* 89 (Fall 1991), pp. 7-44.

10. Because liberalism is strong on individuals but weak on groups it is both strong and weak on the 1990s immigration crisis in the West. Liberal *federalism* has a role to play here precisely because it is strong on both. Neo-nazi violence shows the need for universalism and human rights. On the other hand, it is a mistake to treat populist resistance to immigration as merely an expression of racism, remediable by means of psychological counselling for misguided zombies. That presupposes that minorities have rights but majorities do not. The fact that many Canadians are not happy about Mounties wearing turbans is not just a question of racism. If it were, then Sikhs would have no right to ask non-Sikhs to take off their shoes in their temples. One cannot simultaneously affirm and

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quest for utopian community is well and good, but there is also a need for a few guarantees that anarchism is inherently unable to provide.[11] If within the populist framework all one is left with is "the vindication of people's really existing culture,"[12] weird things may be done in the name of particular cultures and there will be no principles in terms of which to criticize them, no mechanisms in terms of which to resist them. One cannot criticize postmodernism for being relativizing and trivializing, and then dismiss human rights on the ground that they are universalizing and "totalizing." Surely human rights merit more than a few dismissive comments about the "terminal" problems of liberalism. Is it possible to have a theory of social justice that is in no way universalistic? Is it not dangerous to jettison the universals and go with group justice? If one has second thoughts when being cooked by the cannibals, perhaps it is a bit too late. The Lombard League may not be cannibals, or fascists. But say they were? Should one's right to life and liberty be paramount over the right to cultural autonomy? If so, in terms of what principle? What will happen if Quebeckers do set up an independent state? Either it will be a tribal state, in which case there is the problem of fascism, or it will be a smaller version of the liberal state.

Balance, not universalism, is the key issue. Federalism straddles two worlds, but one foot must be securely out of the chthonian ooze. Paglia's critique of the "hard Apollonian line of Western separatism" understands the pathos of its futile attempt to escape from the nature loop. But this is no namby-pamby deconstructionist denial of the meaning of the text, the text of the West, the progressive thrust. The West escapes out of the ooze. Not everyone does. But it still has a foot in it. It tries to forget, or to romanticize, what it cannot fully evade. In the end, it is a story of both: of Apollonian sky-time and Dyonysian earth-space.

Aesthetics deals with synthesis (e.g., Egyptian earth-sky), but does not

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deny cultural rights in an absolute way. One cannot demand the right to transform a host culture while denouncing its impact on one's own culture as "cultural imperialism" (like Toronto's black poets demanding that white poets not be allowed to write about "black matters"). Federalism is relevant here. For example, if Quebeckers feel less threatened by immigration than some other groups, it is partly because they have special immigration powers over the selection and settlement of immigrants — something which, interestingly enough, is not controversial in Canada and is not considered racist. Neither is the fact that Swiss Cantons actually have a say concerning who becomes a Swiss citizen. The federalist logic deals with issues of cultural protection in ways that abstract universalism does not. On the other hand, as a compromise, it is not merely a logic of group.

11. This is why liberalism is ultimately (and ironically) a better means of achieving some left-anarchist values than anarchism itself, which naively thinks that anti-statism paves the way for freedom.

12. Piccone, *op.cit.*

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have to deal with compromise. Politics does. But in dealing with the human condition, aesthetic synthesis is a metaphor about political compromise. Liberal federalism is a compromise. It permits group power but not a tribal state. It affirms nature-place-group, but not the scalping of neighbours who belong to the wrong group. Respecting the old peasants does not mean giving them a blank check. Liberal federalism provides a safety net. It guarantees individual rights against the group. The self is secure and separate from nature-place-group. This safety net is not just about rights, but about dignity. While federalism recognizes the dignity of group, universalism liberates dignity from group, the ascriptive tyranny of birth and nature-place-group. The emancipatory thrust of the Great Escape is not just for freedom but for dignity. Origin and kinship become irrelevant to human dignity in the great Alexandrian library of global citizens, in the great Judaeo-Christian-Enlightenment-Liberal-Marxist project of Western universalism.

Aesthetics and politics thus speak about the same things in different ways. Aesthetics is about nature without knowing it is about politics, and federalism is about politics without knowing it is about nature. Paglia's comments on the Mona Lisa have implications for the Canton of Uri. Humanism implodes on the inner contradictions of its own naturalism; so does de-natured universalism on the gravitational pull of nature-place-group. Humanism is not expunged. But nature is back in the picture: human nature, social nature; the *sexual personae* of Michelangelo, the *social personae* of Mohawks.[13]

Leonardo struggles with nature, modernity tries to escape. Adam Smith, Karl Marx and Talcott Parsons proclaim the gospel of achieved status, of meritocratic universalism, of total disconnectedness. Free trade revives the placeless logic of the never-sleeping market place, from Hong Kong to Wall Street. But this denies, evades, suppresses the ties of place. Why deny the undeniable? Why not work with it instead? Federalism is bold. It works with dangerous forces, of nature-place-group, but with the gloves on. After all, there are ethnic scalpers around. Poisonous snakes from the chthonian ooze should not be handled with bare hands. The human rights of a liberal state are essential to counter group problems of fascism and fundamentalism.

If human rights mean limits to cultural relativism, so be it. That is indeed the meaning of the Western text. Human rights *are* a Western

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13. On Renaissance Form and Italian Art, see Paglia's *Sexual Personae*, *op. cit.*, Chapter 5. In its contradictory messages, Donatello's David signals both the victory and the defeat of Renaissance humanism, the inescapable problems of the Great Escape.

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idea. So is not having your clitoris cut off. Who needs to apologize for that? Is anyone going to apologize to the 80 million African women who have had their clitorises cut off? There has to be an Archimedean point in human rights (as Amnesty International assumes there is, to the discomfort of various regimes). How else can one question things such as ethnic cleansing, Islamic sexism, Arab slavery, let alone outright genocide? That does entail taking provocative positions now, just as it has in the past. It means that the Islamic state is just as much a systemic human rights problem as the Leninist state and the apartheid state. Islamic fundamentalists may not like to hear that, but then neither did the Leninists, who dismissed human rights as "bourgeois nonsense." The real nonsense is the appeasement of fascist fundamentalism, the 30-year UN gag order on female circumcision, the grotesque rationalizations of things such as the anti-Rushdie *fatwa* (assassination order). Accusations of cultural imperialism just rationalize a double standard about human rights (that human rights are Universal when it comes to South African blacks but Imperialism when it comes to Islamic women). For liberal federalism, respect for local culture is not a blank check for cultural relativism. Universal human rights are inherently incompatible with clitoris cutting, sexual slavery and the shooting of writers who dare to be free.

Liberal federalism is thus a balancing act. It means accommodating groups but avoiding fascism by entrenching individual rights. This is what obtains in successful cases such as Canada and Switzerland. This is also the issue in Canada's constitutional struggle today: how to find a new balance, which better accommodates groups and regions without jeopardizing individual rights. Canadian federalism is a successful compromise, born out of historical accommodations between different groups which did not wish to suppress diversity in the name of modernity. French, English, natives and others have gone on being French, English, natives and others, within a pluralistic federal state which permits them to do so. But this is a liberal state, with an overarching structure of individual rights and federal powers. Two recent attempts at "renewed federalism" (the Meech Lake Accord of 1987, the Charlottetown Accord of 1992) provoked a marathon debate. The failure of Meech led to the new and improved Charlottetown package, which was also rejected, in a national referendum in October 1992. But this means less than it seems, since the status quo is already a fairly successful balancing act, and further reforms (e.g., Nunavut) can and will be made in more incremental and less sweeping ways.

What does the simultaneous collapse of Charlottetown and the creation of Nunavut mean? It illustrates the Canadian belance. It means that

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"actually existing Canadian federalism is a pragmatic compromise batween Trudeau's universalistic federalism and Joe Clark's more decentrist, group-oriented idea of Canada as a "community of communities." And the debate gave new voice to both sides. Anyone who thinks that cultural particularity somehow died with the rise of modernity should take note of how all these negotiations brought them back in the picture to better accommodate distinct groups such as Quebeckers and natives (who want more group rights), and marginal regions (East and West) which want more clout in a Triple E Senate (elected, equal, effective). And if the accords failed it was partly because for some they did not go far enough on group rights. For example, Meech was killed by the single word of a single man: native leader Elijah Harper, whose "No" in the Manitoba Legislature prevented unanimous consent to a deal which excluded natives. Charlottetown was more inclusive, but dealt with so many contentious issues as to make unanimous consent even more difficult. Similarly, for some who said no, it was departing too far from individual rights. Most Canadians, it turns out, are unwilling to go much further down the road of special status for distinct groups. They are unwilling to let one province, Quebec, have much more in the way of special power, though they are willing to give natives some form of self-government resembling provincial power. They like the pluralistic federal system, but wish to preserve the overarching framework of liberal democracy: the paramountcy of individual rights (of equal citizens with equal rights), the equality of provinces (of equal provinces with equal powers), and a strong federal government (pursuing national goals and standards such as medicare).

This came most dramatically to the fore in the abrasive interventions of Trudeau and Mordechai Richler. Trudeau has always attacked Quebec nationalists and opposed special status for Quebec, in the name of a pluralistic federalism allowing individuals to be French rather than imposing Frenchness on individuals. His devastating attacks on both Meech and Charlottetown as sell-out deals which betrayed Canada to appease greedy provinces did not mince words.[14] If Trudeau's individualistic federalism (not to be confused with unitary statism) is galling to Quebeckers, so is Richler's brash use of his platform as world-famous-author to lambast

14. For example, Trudeau's Chinese restaurant speech at *La Maison du Egg Roll* in Montreal just before the 1992 referendum helped to swing voters against the group-rights-oriented Accord. See *Maison du Egg Roll* speech, October 1, 1992, and Pierre Trudeau, "Trudeau Speaks Out," in *Maclean's* (Sept. 28, 1992). According to Richard Johnston's polling, Trudeau's Egg Roll speech knocked 20 points off the Yes vote outside Quebec. See *Globe and Mail* (Dec. 31, 1992).

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Quebec nationalism as a narrow, exclusionary, chauvinistic, tribalistic project with anti-semitic and neo-fascist overtones.[15] Nothing annoys French intellectuals more than when Richler says that "when I hear French crowds marching through the streets shouting 'Le Quebec pour les Quebecois,' I do not think they are referring to people whose last name is Ginsberg." Some wanted to ban his book (which, of course, made it a best-seller). But that is what tribalism means. That is the down side of nature-place-group. Some people feel left out, unwanted, a bit worried about their scalps perhaps. This is Richler's way of saying that tribal logic is dangerous. Most Canadians agree. They support the *status quo*, in its indirect solution to the problem of group rights.

This is a distinctive feature of liberal federalism. The indirect solution means vesting power in regions and individuals rather than groups. The latter wield power without group rights as such being entrenched in the Constitution. This is true both of Canadian and Swiss federalism. Quebeckers do not have special rights because they are French, but have group power because they reside in a province in which the majority of individuals are French, in a federal system in which provincial governments have distinct powers. Inuit in the new "ethnic homeland" of Nunavut will not have special rights because they are Inuit but because they are the majority of individuals in that territory. Swiss federalism involves a similar territorialization of rights. Swiss Germans do not have special rights as such, but the majority of people in the Canton of Uri have a lot of power to decide what happens in the Canton of Uri. The old peasants never did actually entrench group rights. Group power works through territorial rather than group rights. Cantons have powers rather than groups having rights.[16]

What *are* entrenched are individual rights. The bottom line is that Canada and Switzerland are first and foremost liberal democracies in which individual rights are supreme, although significantly tempered by nature-place-group. This is what makes liberal federalism different from apartheid. The Inuit "ethnic homeland" of Nunavut will not be an ethnic state or "bantustan," with the kind of separate citizenship of apartheid homelands (which served to de-legitimize black claims to a common South African citizenship with universal rights). Leaving Canada is an option, but being in it means being part of an overarching structure of liberal democracy. Cultural pluralism does not mean rights relativism.

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15. Mordechai Richler, *Oh Canada! Oh Quebec!* (Toronto: Penguin, 1992). This is the book version of an article originally published in the *New Yorker*.

16. On the indirect, territorial solution, see Johnstone, *op. cit.*, pp. 61-2, and Piccone, *op. cit.*, p. 37.

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The Inuit will still be subject to Canadian law. And since being in Canada also means being part of what the UN ranks as one of the best countries in the world, Quebeckers, Mohawks, Inuit, Cree, Newfoundlanders and other distinct groups are unlikely to secede. Interestingly enough, they do have that right. Unlike Kurds and Scots (and Californians), they belong to a place in which secession is actually possible. Quebeckers even had a referendum on this in 1980 (which the separatists lost).

Of course, federal paramountcy is anathema to Quebec separatists. Their problem, however, is that most Quebeckers are not too interested in seceding from Canada unconditionally. Moreover, the rest of Canada will not consider the separatist idea of "sovereignty-association," in which Quebec would be both in and out of Canada at the same time. Separatists invented this idea to fudge the issue for the 1980 vote, when they realized they could not gain sufficient support for outright independence. They still advocate it today for the same reason, though such a move now would be ignored as meaningless by the rest of Canada (and could land Quebec in a Slovakian mess).[17] As long as Quebec is in, it will have to put up with the over-arching claims of a liberal state. This is not too difficult, however, because Canadian federalism allows Quebec a great deal of autonomy (and generous transfers). Furthermore, the Notwithstanding Clause of the 1982 Constitution permits provincial governments to override certain Charter rights under certain conditions. This was a compromise Trudeau had to make with the provinces in order to gain their consent to the 1982 reform package, and his new individual-leaning Charter of Rights. This is how the Quebec government currently enforces its controversial Inside/Outside sign law, banning English outdoor signs, without breaking the law of the land.

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17. The disintegration of the 74-year-old Czechoslovak Federation on January 1, 1993 is a clear warning to Quebec of how sovereignty-association fantasies can backfire. In June 1992, Slovak voters gave their leader, Vladimir Meciar, a mandate to strike a better deal with Prague (just as Quebeckers may give such a mandate to Jacques Parizeau, leader of the separatist Parti Quebecois, which may well win the next provincial election in Quebec). In a typically Quebec fashion, Meciar demanded full sovereignty, including a seat at the UN, but continuing $1 billion-a-year subsidies from the Czechs. The Czech reaction to this have-your-cake-and-eat-it idea was summed up by Ivan Tomek, an analyst at the Public Opinion Research Institute in Prague. "They want to go, f—k them. I am sorry to use such language, that's the way people are talking." Meciar had to choose between sovereignty or association. Yet 1992 polls showed that only 8 to 15% of Slovaks wanted independence, and that about 66 to 75% of Czechs and Slovaks wanted to remain in a common state. See Kitty McKinsey, "Nervous Slovaks Set to Ring in Independence," in *The Montreal Gazette* (Dec. 28, 1992). Appearances notwithstanding, the disintegration of the Czechoslovakian nation-state was not popular, nor would the disintegration of the Canadian nation-state be any more popular.

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Paramountcy is also a tricky issue for natives since, unlike Quebec, various Treaty Indians claim to have already been "nations" and to still be so today. Some native leaders actually reject the idea of native self-government as a threat to unceded sovereignty, and opposed the "progressive" 1992 Accord on these grounds.[18] This is the basic problem for hard-line liberals like Trudeau. What can they say to the Mohawks, to the Cree? Get Lost? Even for Canadian natives the issue is not cut-and-dried. Thus, in the current debate about native self-government, native women have been embarassing the mostly male native leaders by insisting on Charter paramountcy (of the Charter of Rights) in any new scheme, because of the appalling rate of sexist violence against women in the native's "really existing culture." For them, universal and enforceable rights are hardly "oppressive." Balance, not universalism, is the issue, and that is what Canadian federalism is about.

Free Trade Crisis: Populist Resistance and Federalist Economics

Politically, the crisis of universalism points towards federalism, which has to be *liberal* if it is to be clearly and categorically free from the fascism/apartheid side of cultural particularism. But what about the crisis of economic universalism? This also requires a balancing act: a federalist critique of free trade that goes beyond knee-jerk protectionism, that rejects the arrogant assumptions of market absolutism without denying the benefits of the market place and liberal trade.

Those assumptions are being questioned by the old peasants, who know what a "level playing field with Mexico" really means. When they hear about "short term pain for long term gain," they know who is likely to feel the pain and who will benefit from the gain. They know what this Buy-And-Sell-Anything-For-The-Cheapest-Price game means. It means selling your birthright for a mess of potage. Sure, people may get Mexican sneakers at K-Mart for ten dollars, but in exchange for no longer being able to produce anything themselves. And without a productive job or a protective government they will be left at the mercy of global capital: dependent, weak, expendable, cheap. Again, the Canadian case is instructive here. As free trade looms larger on the world agenda, the Canadian case is of interest on at least four levels: its price tag, the macho elitism it is packaged in, the populist resistance it generates, and the alternative economics it implies.

Before buying into NAFTA it might be worthwhile consulting Mel

18. For example, in the October 1992 Referendum, Treaty Six Chiefs took out full page newspaper ads insisting on separate rights and separate development.

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Hurtig's report on the Canada-US Free Trade Agreement (FTA). Not many economic reports spend 30 weeks on the best-seller list. But this is a dramatic story, about what happens when one gives up the proverbial bird in hand for two in the bush. The fact is that Canada has always been a successful and liberal trading nation. But the FTA was a new kind of *hara-kiri* economics, in which one cuts one's throat to become "more competitive." It was a sell-out deal which made blanket concessions in exchange for no real benefits. In the first three years of the FTA (1989-92), Canada lost about 600,000 jobs and 1000 factories, its merchandise trade surplus with the US declined by over $6 billion, and its global balance of trade in goods and services went from a surplus of about $13 billion to a deficit of about $10 billion.[19] Most of the lost jobs have been prime manufacturing jobs. Since 1990 Canada has lost manufacturing jobs at triple the US rate, and the unemployment insurance bill has risen by $7 billion.[20] Ontario (Canada's manufacturing heartland) has been devastated. Toronto's unemployment rate is now higher than the national average, and one in ten people are on welfare. This would have been unthinkable five years earlier.

Numbers aside, of equal interest is the political debate between the advocates of macho elitist free-trade and left-populist fair-trade. Canadians, who have always been successful traders, were told that their world class economy was a basket case and that they were foolish old peasants who should make more concessions to American capital, if they were to "stand up like real men in a tough world." But it is not easy to fool the old peasants. As the dismal results roll in, they have few illusions about what the neoconservative agenda really means, as they witness what Hurtig refers to as the "de-industrialization of Canada" into a "warehouse economy." Mulroney became the most unpopular leader in modern Canadian history[21] and the new plan to extend FTA into NAFTA with Mexico, where manufacturing wages are 800% lower than Canada, is going over like a lead zeppelin.[22]

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19. Mel Hurtig, *The Betrayal of Canada* (Toronto: Industry Stoddart, 2nd ed., 1992), pp. 22 and 56.

20. Conference Board of Canada, *Canadian Press* (Nov. 10, 1992).

21. See for example Jeffrey Brooke, *Breaking Faith: The Mulroney Legacy of Deceit, Destruction and Disunity* (Toronto: Key Porter Books, 1992).

22. On growing populist resistance to NAFTA, see Bob Davis, "U.S. Grassroots Coalition Unites Against NAFTA," in *The Wall Street Journal* (December 26, 1992). The Citizen Trade Campaign "includes not only traditional foes of free trade such as labor unions, and those wary of the pact such as environmentalists, but also a broad assortment of consumer groups, farm groups, foundations, animal rights activists, religious organizations and even the Rev. Jesse Jackson. . . Teamsters sit down with Greenpeace

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European resistance to Maastricht and Canadian resistance to NAFTA thus reveal a common tension between patronizing elitism and populist dissent. While universalistic elites glibly pontificate about the misguided inertia of foolish people who cannot take the heat, and while media gurus re-package the "end of history" into the "end of nation," the old peasants refuse to be intimidated and continue to see the old fashioned nation-state and regional governments as their protectors.

This is the gist of Canada's left-populist critique: free trade as a neo-conservative power play which enables global capital to make an end-run around the historic achievements of the welfare state.[23] Free trade in Canada has generated populist resistance to globalization orthodoxy. Again, as with federalism, universalism itself is not the issue, but balance. It does not mean denying that liberal trade can be beneficial so much as rejecting the absolutist assumptions of market fetishism, of economic universalism. It means countering placeless logic with a logic of place that prefers specific deals to blank checks, and that insists on mutual benefits. To dismiss it all as knee-jerk protectionism is an arrogant denial of the meaning of place, of the historic achievements of the Canadian

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and Catholic priests. It's the greatest coalition-building issue I've ever seen." This campaign flows out of earlier resistance to GATT, as led by people such as Mark Ritchie, a Minnesota farm activist who moved to Brussels for six months in 1987 to study free trade and GATT and returned to the US to sound the alarm on the ways in which international trade agreements would undermine many national, state and local laws. In 1990, Ritchie launched the Citizen Trade Campaign, which came within 39 votes of defeating Bush's NAFTA Bill in Congress in 1991, and was further galvanized by the GATT tuna ruling of August 1991, and the presidential campaign of 1992 (e.g., Ross Perot's savage attack on NAFTA and what he called the "giant sucking sound to the South"). A *Wall Street Journal*/NBC News poll in October 1992 found that those with an opinion on NAFTA opposed it by a ratio of about two to one. Canadians now hope that American populist resistance to the neo-conservative agenda will help check the free trade steamroller. They hope for example that Americans will investigate Mexican border towns such as Matamoros, which is becoming a world headquarters of pollution, fumes, slums, poisons, hepatitis, tuberculosis and babies born without brains. A six year study by Mexico's National Institute of Perinatology has found high lead levels in the umbilical cords of 41% of the 240 Mexican babies tested since 1988, and a recent study by the Sonora Technological Institute found high levels of pesticides, five of which are banned in the US, in the blood of newborn babies and their mothers' milk. (Christine Tierney, Reuters News Service, November 26, 1992.) NAFTA will just extend the already notorious record of the border-industry *maquiladora* companies (which do not pay tariffs on goods shipped to the U.S.) to the whole of Mexico.

23. On this end-run theme and related critique, which has already been raised in Canada and is now being taken up in the US because of NAFTA, see Walter Mead, "Bushism, Found," in *Harper's* (Sept. 1992); and Jonathan Schlefer, "What Price Economic Growth?" in *Atlantic Monthly* (Dec. 1992). As Schlefer concludes: "The culprit is not wider trade but the way NAFTA will achieve it, by allowing investors to desert countries with better wages, stronger environmental and workplace regulations, and higher taxes."

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welfare state. The Canada-US AutoPact was a good example of fair trade. Canada made specific trade concessions in exchange for guaranteed production benefits. The FTA, by contrast, made a whole lot of concessions without any guaranteed benefits (and for no good reason, since Canada already had about 90% free trade with the US anyway). The US now even has guaranteed rights to Canadian energy supplies, in exchange for vacuous promises of "new jobs" and "generous job retraining schemes for displaced workers" (schemes that have been totally forgotten by now, and should be immediately discounted by Americans who are now being fed the same pablum with NAFTA).

Meanwhile, the Japanese, who know all about the logic of place and who have never believed in blank check free trade, and whose prosperity puts the lie to the free trade propaganda that one cannot prosper unless one kicks the government out of everything and lets the rest of the world in to do whatever it wants, sit back bemused. They understand group solidarity, tribal economics, attack economics, *kami kazi* economics, but not *hara kiri* economics. They understand something like the AutoPact, since they do not let anyone into their own economy. But how Canada could simply declare open season on itself for global capital, and voluntarily disembowel its own economy is quite beyond them. And that is why Hurtig's book is selling. Disembowelment is dramatic. Indeed, the economic disembowelment of Ontario has been shocking, with whole factories literally disappearing over the weekend on trucks heading South, and unemployed people walking around with signs saying "Will Work for Food."

Resistance is one thing, critique another. Free trade critique means critique of market theory, as well as of the new version of the "end of history": the "end of nation." Globalization is just a new form of market absolutism, which cannot be rejected within the terms of market theory itself. This theme is familiar enough to the Left, which has always had one leg firmly outside market theory and which in Canada has led the charge against the neo-conservative free trade agenda in the name of a Left-nationalist defence of the historic achievements of Canadian social democracy. Interestingly enough, it even tests the limits of conservatism. What else, after all, is Thatcher's anti-Maastricht position all about? It resonates with awkward meanings for the Right. Thatcherism implodes on its own contradictions: autonomy vs. statism, populism vs. elitism. The anti-statist free marketism of economic universalism leads ironically to hegemonic integrationism and Maastricht mega-statism, GATTism and NAFTA. One cannot make one's old goat cheese anymore, because it contravenes Regulation 614, Section B (2), p. 7589.

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As Thatcher belatedly came to realize, after trying to catch up with the Japanese by doing things the Japanese would never have dreamt of doing, *hara kiri* economics leaves one bleeding. The brash model of entrepreneurial individualism leads to a loss of economic and cultural sovereignty which even conservatives find hard to swallow. The truth is that neoconservatives are not really neoconservatives: they are neo-liberals. Conservatives and anarchists both have some respect for the old peasants. It is liberals and Marxists who do not. British conservatives think in thousand-year Agincourt terms. Brussels bureaucrats are just little blips on the millennial radar screen, and there are some itchy fingers on the trigger. Likewise in North America, populist leaders such as Preston Manning (of the insurgent Reform Party in Western Canada) and Ross Perot (in his attack on NAFTA) tap into social discontent "down on the farm" about lost worlds, banks foreclosing, companies exiting, and foreigners profiting: about rootless money, placeless logic, homeless values.

Global GATTists have more than populist protest to worry about. Free trade also provokes ecological resistance, as can be seen from the big tuna fish fight. The powerful American eco-lobby already has GATT on the defensive on things such as the dolphin-destructive Mexican tuna trade, and the Euro-eco-lobby is not far behind on things such as Malaysian tropical lumber.[24] This is just a sign of things to come, especially with Gore in the White House. Those who think free tradism is a blank check for eco-destructive economics are in for a surprise. Malaysian eco-fascists ("We'll cut down every damn tree if we want to") are in trouble. It is not just a cheap labor issue anymore. The eco-critique of free trade broadens not only the terrain of resistance but the force of critique, since ecological theory involves the same repudiation of market absolutism as does social critique: the same affirmation of context, the same rejection of disconnected universalism, of Newtonian mechanics, of the objectification of nature, space, time and place.

Free trade critique is thus fueled by a potent combination of populist and ecological resistance, in the name of an alternative, more socially and ecologically responsible economics. It is unclear just what this is, since it is still defined primarily by what it is not. But despite the heady rhetoric of "global competition," the days of market absolutism are numbered and people shocked by jobless wastelands, gutted programs

24. In August 1991, a GATT panel ruled that a U.S. law protecting dolphins violated international trade agreements because it discriminated against tuna from Mexico. (Mexican nets, which snag dolphins with tuna, are now illegal in the U.S. but considered permissible by GATT). Under new GATT rules, foreign governments would have even more grounds for challenging U.S. environmental laws as restraint-on-trade.

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and disappearing dolphins will pull out Schumacher again, the old Gandhian essays, about "two million villages" and "Buddhist economics,"[25] Along with ecological theory, small-scale development theory affirms the context of place, of nature-place-group, of local ways, local production, in ways that the atomic individualism of market theory does not. Along with social democratic theory, it sees a role for community and government in ways that *laissez faire* market theory does not. Along with anarchist theory, it respects the old peasants in ways that peasant-hating Marxism does not. Actually it respects the old peasants in ways that both Marxist and modernization theory (which are inverted forms of each other) do not. As development theories go, free-tradism is just warmed-over modernization theory, re-hashed Rostow, with the same old fantasy of endless growth through freer trade. Is the Hong Kong model really the solution to the world's problems? What is the fate of the Amazonian rainforest and the Newfoundland outport within this model? It is as if nothing has happened in development theory in the last 30 years.

Ironically, as the 21st century approaches, "utopian" Schumanomics turns out to have more staying power than "hard-nosed" Reaganomics and "realist" Thatcheromics, which are imploding everywhere. Clintonomics is a backlash of place, for local benefits, investment, growth. There are no easy solutions to structural decline, imploding Keynesianism and four trillion dollar debts. But that is what Robert Reich's emphasis on "grassroots economics" and "immobile assets" is about: a new resistance to placeless logic by a logic of place, to placeless economics by what Schumacher called "economics as if people mattered."

As it turns out, free trade has a negative-feedback-loop. The globalization steamroller squashes things flat, from Ontario jobs to Saskatchewan farms, from Pacific dolphins to Malayan teak. And local costs of economic universalism point, along with those of political universalism, toward some compromise between the global and the local, commodities and people, future and past, experts and peasants, depressing intellectuals and the old salts — some compromise between placeless logic and the logic of place, between the Hong Kong stock exchange and the Canton of Uri. A federalist economics?[26] The label is not important. But the idea is. It makes sense to protect the neighbourhood. It is not misguided to think that local and national governments are still good tools for that. It may be

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25. E. F. Schumacher, *Small is Beautiful: Economics as if People Mattered* (New York: Harper, 1973). Federalism could also be defined as politics as if community mattered.

26. Because of the autonomous economic powers of Canadian provinces, which are currently resisting neo-conservative attempts to introduce "free trade," Canada already

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necessary to re-think what one can afford, and what one is entitled to. But a "level playing field with Mexico"? Must one become mere cannon fodder in the global war of capital, which takes no prisoners, wants as little government control as possible, and would be only too happy to have a high-tech version of 19th century wage slaves, policed by Gatt RoboCops?

Perhaps not. Nor are Quebeckers and Mohawks willing to give up the ghost. So one can look for a compromise, that gives one a say, through one's neighborhood in the bigger game, the political game, the economic game. Federalism and fair trade are ways of doing that, imperfect yes, but popular for self-respecting people who refuse to simply lie down and accept their modern fate within a universalizing script. The old peasants are back in the picture. The script is being questioned, changed, rewritten. And not least of all by Canadians, who sometimes worry about their place in history but who, it turns out, are actually out there in the global crisis doing world-historical things such as stopping people from scalping each other in Bosnia, resisting free trade threats to their social democratic state, and dealing with old group issues through new group schemes such as Nunavut. Like Schopenhauer's porcupines, Canadians seek out the middle ground: "On a cold winter's day a group of porcupines squeezed very close to each other, using their mutual warmth to prevent death from cold. Soon, however, they felt each others quills, which once again made them draw apart from one another. But the need for warmth brought them together again, only for the problem to repeat itself, so that they found themselves driven to and fro between the two sufferings until they finally found an intermediate distance affording them the most comfort possible."[27]

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has a kind of federalist economics. These powers have enabled Quebec to chart a distinct course with some guaranteed benefits. Take beer for example. The reason there is such a thing as Newfoundland beer is because of federalist economics: to sell beer in Newfoundland, Canadian breweries have to brew it there. Free trade would mean the end of Newfoundland beer and, for that matter, it would also mean problems for American beer. Like Canadian provinces, American states wield all kinds of federalist economic powers (including hundreds of wine and beer regulations in over 40 states), which are threatened by international trade agreements like NAFTA and GATT. See Penelope Lemov, "NAFTA, US States on Collision Course," in *Congressional Quartely* (Dec. 1992). A 1992 GATT-panel ruling on beer imports threatens to invalidate regulations in many US states. See Bob Davis, *op. cit.*

27. As cited in Jean-Loup Amselle, "Tensions Within Culture," in *Social Dynamics*, Vol. 18, No. 1, (1992), pp. 42-65.

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Individuals, Communities and Federalism — Reply to Johnstone

Mike McConkey

Frederick Johnstone's defense of federal liberalism fits well with a recent analysis of Canada's constitutional crisis by leading Left scholars.[1] Its title, "Three Nations," suggests that instead of being regarded as a country based on two founding "nations" — English and French — Canada should be considered a federation of three, including aboriginal people (regardless of whether the latter care to be aggregated as a *single* nation). Bemoaning Canada's lack of genuine democracy, it salutes the people's desire for self-determination and sneers at the state's "cumbersome and unaccountable bureaucracy," while simultaneously calling for a strong *national* government. The character of this "national" government is not identified either by these Left scholars or by Johnstone, who is primarily concerned with defending individual freedoms against group atrocities. But the question remains: is the solution individual rights or individual freedoms? Johnstone continually couches his concern for individual freedoms in terms of individual rights, which are always abstract. Anyone can declare whatever inviolable rights they please (and these days many do), but it is hard to cite concrete cases where the abstract declaration of individual rights has prevented atrocities. What has prevented atrocities has been *power*, i.e., some agent

1. Published in *Canadian Forum*, this analysis was co-authored by English Canada's leading nationalist social democrats. Despite the fact that most of them have long been cloistered in the Ivory Towers of Toronto, the authors purport to speak as "Ontarians" and "English Canadians" — a typical case of the New Class universalizing its own particularistic agenda.

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with sufficient power to intervene in their defense.

The question of individual freedoms is a matter of specific commitments *within* particular groups. Abstract declarations of individual rights easily become the rationale for New Class bureaucratic domination. This is how autonomous communities once able to sustain themselves end up destroyed. Admittedly, there is no guarantee of a commitment to individual freedoms within any group. However, they must be defended within *actual* groups or communities as an organic part of the community's own political identity — not as a universalistic policy imposed by an external regulatory agency. This is the main problem with Johnstone's defense of the individual within federalism. He poses the question of whether it is possible to have a theory of social justice that is in no way universalistic? But the question remains: is a universalistic theory of social justice the same thing as bureaucratically guaranteed individual rights? It is one thing to argue for a universal standard of social justice in any and every particular community and another to impose them by bureaucratic means on all communities.

Universal standards of justice, including respect for individual freedoms, are desirable not just in the interest of justice but also of intercommunity peace. Such standards would be part of a federal populism. However, to be genuinely democratic and autonomous also means that the success of no particular political argument can be assured in advance and apart from the particular political vicissitudes of each specific community. But this is exactly what Johnstone wants in his liberal federalism. His account of Canada's historical struggle with the fine balance between individual and collective rights, culminating in the referendum rejection of the Charlottetown Accord for failing to achieve such a balance, is questionable for the following reasons.

First, Canada (or British North America) has been commodified territory from the very beginning. There never was any talk about building cities on hills in Canada. Indeed, there was an explicit concern on the part of governing authorities that the kind of democratic ethos cultivated in the pre-revolutionary town hall meetings of New England be strictly avoided through the withholding of corporate status to municipalities. Town meetings were always discouraged and on a number of occasions actually outlawed.[2] These territories were not to be about politics but economics. Moreover, the very patterns of the key staple

2. Engin Isin, "Canadian Federalism and Cities: A Colonial Legacy," in Henri Lustiger-Thaler, ed., *Political Arrangements: Power and the City* (Montreal: Black Rose, 1992), pp. 43-45.

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trades, with their markets back in Europe, is what guided the settlement and communication networks of the British colonies — from the cod fisheries through the beaver pelts to the lumber trade and beyond. The earlier political unions among these colonies were tinkered together by a band of mercantile capitalists to generate the portfolio investment necessary for infrastructural improvements such as canals and railways.[3]

Canada, as such, resulted from Britain's repeal of the Corn Laws in 1846, which threw the remaining British North American colonies into crisis, and from the 1866 abrogation of the reciprocity treaty with the US by the protectionist North after its civil war victory, which did much the same thing. The remaining colonies pursued this last ditch effort to maintain the life to which they were accustomed by piecing together a mercantile system East to West, out of the various British North American possessions.[4] Canada's "executive federalism" came out of this legacy.[5] The referendum rejection of the Charlottetown Accord had little to do with abstract arguments about the fine balancing of individual and collective rights. Rather, it was a resounding rejection of the latest version of "executive federalism." One of the main criticisms of the Meech Lake Accord process was precisely this type of crudely undemocratic procedure.

The Meech ake experience, coming hot on the heels of the wrenching 1988 free trade election fiasco, led an astounding cross-section of the country's population to call for an overhaul of Canadian political structures and procedures towards the achievement of a more thorough and participatory democracy. This was a major concern frequently raised in the mock town meetings of the Spicer Commission, instructed by the federal government to investigate the roots of the evident popular

3. W.T. Easterbrook and . G. J. Aitken, *Canadian Economic History* (Toronto: University of Toronto Press, 1956).

4. V. C. Fowke, "The National Policy — Old and New," in *Canadian Journal of Economics and Political Science*, Vol. 18. No. 3 (August 1952).

5. Donald Smiley first coined the term and later wrote the critique of executive federalism that prefigured the criticism which was to arise around both the Meech and Charlottetown accords in "An Outsider's Observations of Federal-Provincial Relations Among Consenting Adults," in R. Simeon, ed., *Confrontation and Collaboration* (Toronto: Institute of Public Administration of Canada, 1979). Douglas V. Verney, "Incorporating Canada's Other Political Tradition," in David P. Shugarman and Reg Whitaker, eds., *Federalism and Political Community* (Peterborough, Ont.: Broadway, 1989) offers some useful clarification of this term's use in the Canadian context. However, his own constructive suggestion that the Senate be replaced with an institutionalization of the First Ministers' conferences is not what he calls "half-federalism," but more like "parody-federalism." Cf. also Ronald L. Watts, "Executive Federalism: The Comparative Context," in *ibid*.

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disgust with the Meech Lake process. It was certainly a factor in the rapidly growing popularity of the Reform Party with its crude radical agrarian platform.[6]

When the Charlottetown Accord was finally put together, however, the same cast of characters, caballing in their secret meetings, turned out to be calling the shots once again. In the end, nothing had changed. If this is what the rejection of the Charlottetown Accord was really about, it leads to far different lessons than those Johnstone draws in the interest of liberal federalism. This populist revolt was based on a democratic yearning, understood in terms of the decentralized polity that made substantive experience the life-blood of democratic citizenship. Different from a liberal federalism requiring a bureaucratic rationality to regulate its idealism, this is a federalism of autonomous and cooperative communities. To believe that Canadians were re-embracing Trudeau's vision of the country in their rejection of Charlottetown is sheer fantasy. Trudeau's "individualistic federalism" was what led to the present mess. Canadians may not have been sold on the Tories' provincial pseudo-decentralization, but they certainly were not going to recycle Trudeau's damaged goods.[7]

As Prime Minister, Trudeau tried to sell an individualist vision of the country, capped with the entrenchment of the Charter of Rights and Freedoms in the repatriated constitution of 1982. This apparently individualist charter, however, was also primarily centralist.[8] Thus the Charter is part of a larger fabric of assumptions that leads not to more democracy but more bureaucracy. It was precisely during the Pearson and Trudeau administrations that bureaucratic rationality became entrenched in the

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6. Rick Salutin provides some sense of the democratic distemper unleashed during the free trade federal election of 1988 in *Waiting for Democracy* (Markham, Ont.: Viking, 1989). This democratic upheaval, however, only fully emerged following the failure of the Meech accord. See *Citizens Forum on Canada's Future: Report to the People and Government of Canada* (Ottawa: Minister of Supply and Services Canada, 1991), pp. 96-109; and the findings of the Decima Research Group, published in *Maclean's* (January 7, 1991), p. 10.

7. One should bear in mind that the Tories' attempts to relocate important powers in the provincial states is just part of a much longer history of neo-capitalist pseudo-decentralization. The regionally specialized nature of staple production in Canada has led to the growth of regional bourgeoisies who have sought to strengthen their own interests and influence through a strenghtening of their regions' provincial governments. Cf. Gareth Stevenson, "Federalism and the Political Economy of the Canadian State," in Leo Panitch ed., *The Canadian State: Political Economy and Political Power* (Toronto: University of Toronto, 1977). As I have argued elsewhere, only a genuine decentralization to the scale of practical self-government, combined with multiple-layered re-confederation, offers a solution to these problems. See Mike McConkey, "Beyond the Crisis: Proposals for a New Confederation," in Henri Lustiger-Thaler, ed., *Political Arrangements*, *op. cit.*

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Canadian state. This involved increased technocratic rationalization under Prime Minister St. Laurent's administration, along with rapid federal centralization. Trudeau profoundly entrenched the federal civil service as an instrument of social integration with his Francoization project, while seeking to streamline and centralize its technocratic character with such ambitious "rational decision-making" programs as the Planning Programming, Budgeting System and the Operational Performance Measurement System.

The Pearson-Trudeau era saw an awesome range of initiatives to spearhead the state bureaucracy's penetration of everyday life: the Medicare Act, the Canadian Pension Plan, the Established Programs Financing Act, the Technical and Vocational Training Assistance Act, the Adult Occupational Training Act, the Department of Industry (later merged into the Department of Industry, Trade and Commerce), the Department of Manpower and Immigration and the Department of Consumer and Corporate Affairs. There were also such initiatives as the Community Employment Strategy, the Export Development Corporation, the Department of Regional Expansion, and the consolidation of a vast range of regulatory powers with the establishment of the Canadian Radio-Television and TeleCommunications Commission. Last but not least, a variety of measures to reorganize income tax, family allowance and unemployment insurance, and the controversial Anti-Inflation Act (Wages and Prices Controls) of 1975. Thus Trudeau's practical legacy was not a defense of individual freedoms but a vast expansion of bureaucratic centralism.

As Johnstone acknowledges, the only way to secure individual rights prior to and over against the particular political processes of each specific community is through the policy regulation of a state that polices those rights — bureaucratically and otherwise. In his enthusiasm for "universalist good-guy cops," Johnstone seems to have forgotten that during Trudeau's tenure as Prime Minister the mounties were accused of abuses. There is considerable evidence that the Royal Commission inquiring into these abuses was basically a white-wash. Probably the truth will never be known.[9] Over the years the mounties have had to deal with some cases of scalping or its equivalent, but they seem to have spent a lot

8. Cf. Peter H. Russell, "The Political Purposes of the Canadian Charter of Rights and Freedoms," in *Canadian Law Review* (1983); and Peter Hogg, "Federalism Fights the Charter of Rights," in *Federalism and Political Community*, *op. cit.* Hoggs generally supports this view, though he suggests that the terms of the Meech Lake Accord would have off-set this tendency.

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more time violating the very individual rights that Johnstone somehow thinks the universalist state police are going to protect.

If federal populism has problems, so does Johnstone's liberal federalism. The difference is that the latter already exists, with its endless series of bureaucratic and ethical crises. The solution to those crises is a weakening of bureaucratic domination by a populist undermining of its *raison d'être* through a recovery of individual and community freedom, dignity and responsibility. Such a recovery requires a reconstitution of political space for genuine democratic citizenship. This is the modest hope held out by federal populism.

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9. Commission of Inquiry Concerning Certain Activities of the Royal Canadian Mounted Police, *Certain R.C.M.P. Activities and the Question of Government Knowledge*, Third Report (Ottawa: Minister of Supply and Services Canada, 1981); Jeff Sallott, *Nobody Said No: The Real Story About How the Mounties Always Get Their Man* (Toronto: James Lorimer & Co., 1979); Robert Dion, *Crimes of the Secret Police* (Montreal: Black Rose, 1982). The latter deals with the whitewash efforts of the Commission.

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The Case Against Liberal Federalism and Protectionism — Reply to Johnstone

Paul Piccone

The resurgence of ethnicity and nationalism with the end of Cold War mobilization challenges liberal conventional wisdom concerning both the rapid fading of "premodern" cultural formations and the very possibility of "completing" modernity anywhere soon — at least in the way the project has been formulated since the Enlightenment. As Johnstone convincingly argues,[1] far from accelerating the spread of a vague, capitalist-driven cosmopolitanism within which nation-states are gradually "absorbed or dislocated by the new supranational restructuring of the globe,"[2] as projected by Panglossian liberals and Marxists, the 21st century seems to increasingly prefigure the rediscovery of the political and cultural autonomy of various particular groups and regions. Lacking a concrete notion of "nations," liberals and Marxists have no way to interpret them as bankrupt historical projects, i.e., failed attempts to codify politically and organize territorially

1. See Frederick Johnstone, "Quebeckers, Mohawks and Zulus: Liberal Federalism and Fair Trade," in this issue of *Telos*.

2. Eric J. Hobsbawm, *Nations and Nationalism since 1780: Programme, Myth, Reality* (New York: Cambridge University Press, 1990), p. 182. Even more than Francis Fukuyama's embarassing forecast of the end of history or the CIA's (and establishment Sovietology's) failure to gauge accurately the internal fragility of the USSR, the analyses of ex-communist and Marxist historians have systematically misinterpreted recent events, ruling out, for example, the possibility of a federal populism unfettered by the traditional nation-state, but still committed to particularistic, territorially-defined cultures. Thus, Hobsbawm can speculate about Wilson's old notion of a "Europe of nations," but does not even entertain the possibility of a "Europe of regions" (pp. 131ff. and 176).

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predominant norms and practices.[3] Consequently, they cannot distinguish their particular manifestations from new regional formations demanding local political and cultural autonomy (such as Scotland, Wales, Lombardy, Catalonia, etc.).[4] Departing from dogmatic Enlightenment assumptions postulating the primacy of economics and abstract universalism, they can only approach nations as contrived, historically obsolete and vague political aggregations — at best "imagined communities" manipulated by states to legitimate themselves and their policies[5] — waiting to be displaced by irresistible globalizing economic trends.

The collapse of bureaucratic centralism and the concomitant postmodern demystification of Enlightenment ideology as the outlook of the New Class has exposed both liberalism and Marxism as part of a bankrupt project of social reconstruction ultimately committed, notwithstanding their frequent opportunistic defenses of "multiculturalism," to homogenize all "really existing" cultures through managerialism and consumerism. Marginalized and instrumentalized during the Cold War, these "really existing cultures" are now reappearing not only as crude expressions of nationalism, ethnocentrism and racism, but also as radical calls for regional and cultural autonomy requiring new geopolitical arrangements transcending both the traditional nation-state and various versions of abstract internationalism predicated on raw economic rationality. The coming of post-Fordism and the end of gigantism in industry (already prefigured by the demise of IBM and GM) means the end of the Marxist myth of irresistible economic forces necessitating epiphenomenal social and cultural formations.

Developments such as the violent deployment of "ethnic cleansing" in the former Yugoslavia long after the shock of the Holocaust had allegedly rendered such barbarities unthinkable, brutal civil wars in many

3. See Paul Piccone, "The Crisis of Liberalism and the Emergence of Federal Populism," in *Telos* 89 (Fall 1991), pp. 7-44.

4. See Gianfranco Miglio, "Toward a Federal Italy," in *Telos* (Winter 1991-92), pp. 19-42.

5. According to Benedict Anderson, nationalism is characterized, first and foremost, by its "emanating from the state, and serving the interests of the state." See his *Imagined Communities* (London: Verso, 1983), p. 145. Along with Hobsbawm, however, Anderson does not inquire into the status and possible constitution of "real communities" as concrete alternatives to the abstract "citizenship" advocated by both Marxism and liberalism, and does not go beyond bemoaning nationalism as an "anomaly" within an otherwise allegedly sound Marxist framework. For a more powerful critique of nationalism proposing "divorcing the concept of state from that of nation" in order to generate a "truly pluralist and polyethnic society" with a "federal form of government" as that of "tomorrow's world," see Pierre Elliott Trudeau, "La Nouvelle Trahison des Clercs," in *Cité Libre*, Vol. 13, No. 46 (April 1962), p. 15ff.

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Third World countries, the break-up of the former Czechoslovakia, the disintegration of Somalia, the progressive erosion of the main political institutions in hitherto relatively stable countries such as Italy,[6] demonstrate the counterproductivity of attempts to confront the future by merely extending obsolete eschatological projects such as Wilsonianism or Bolshevism, based on the fear of, or faith in, the rationalizing/homogenizing power of transnational capital and "Western democracy."[7]

Tempting as it may be from the viewpoint of those who have lived for so long under communist domination, the demise of cosmopolitan utopianism with the end of the bipolar division of the world must not be seen in terms of the relegitimation of traditional nation-states, or of the international organizations predicated on them. The unexpected stall in the European Community's march to unification of *existing* West European nation-states as a third force mediating between the two former super-powers now reduced to an increasingly crisis-ridden US and a disintegrated communist bloc, as well as Bush's short-lived "new world order" (a legally regulated international framework also consisting of *existing* nation-states under the supervision of a strengthened, US-dominated UN), document most clearly the obsolescence of pre-1989 geopolitics and the inability of predominant neoconservatism/neoliberalism to quickly adjust to qualitatively new historical situations. The failure of the Bush administration to break up Iraq into three culturally distinct regions was a result of the mistaken assumption of the permanence of a stable international order where "really existing" nation-states with fixed identities could indefinitely relate to each other within an established international forum such as the UN. Today, however, the future of most nation-states remains unclear, threatened externally by growing global interdependence and internally by an even more rapid growth of regionalism.

This new predicament is obviously related both to the sudden removal of the totalizing bonds hitherto fusing heterogeneous social series into national groups and alliances after almost half a century of a *de*

6. The growing attack on the "partitocracy" in Italy as a result of disclosures of widespread corrupt practices ("*tangentopoli*") is one of the most spectacular refutations of conformist political science, which had hitherto glorified Italy's *de facto* political stability in the midst of apparent institutional chaos. See the glowing account of the "cleverness" of the Italian party system by the dean of US Italianists, Joseph La Palombara, written shortly before the beginning of the crisis: *Democracy Italian Style* (New York: Yale University Press, 1987).

7. This argument is developed in greater detail in Paul Piccone and G. L. Ulmen, "Schmitt's 'Testament' and the Future of Europe," in *Telos* 83 (Spring 1983), pp. 3-34.

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facto state of emergency and Cold War mobilization, *and* the failure of what Johnstone criticizes as the liberal-Marxist cosmopolitan model. By focusing exclusively on some of the shortcomings of the second — something which has been well documented and denounced at least since the end of WWII,[8] and which therefore cannot help explain *recent* developments — Johnstone can propose liberal-federal reforms (or the adoption and extension of the American/Canadian model)[9] as a solution, thus implicitly exculpating both social democracy and liberalism by emphasizing *liberal* federalism as the logical answer to regionalism. Thus the emphasis on the *ideological* rather than the specifically *historical* determinants of the present predicament has the counterproductive consequence of an abstract negation: the relegitimation of precisely the liberal-Marxist framework he claims to be criticizing. At best, Johnstone's liberal federalism promises only to extend, rather than break with, capitalist cosmopolitanism. The result is likely to be increased centralization, further disintergration of local autonomy and ultimately a decline in grass-roots democracy because of the further erosion of the kind of individuality necessary to sustain truly democratic (rather than bureaucratic) institutions.

According to Johnstone, what a viable federal model requires is the prompt enforcement of human rights by an efficient central bureaucracy

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8. Thus, the critique of the culture industry is at least as old as Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment*, trans. by John Cumming, (New York: Herder & Herder, 1972) — a book which, however, did not become well known until the mid-1970s, long after some of its major ideas had been popularized by Herbert Marcuse in the more simplistic, but considerably more accessible, *One-Dimensional Man* (Boston: Beacon Press, 1964). Similarly, parallel critiques of liberalism, unencumbered by ponderous neo-Marxist assumptions (but also lacking theoretical profundity) had been developed by sociologists such as C. Wright Mills, Vance Packard, David Reisman etc. After 1968 these ideas have become integrated into a neoliberalism which, under the banner of "multiculturalism" and "diversity," continues standard statist liberal-Marxist practices while pretending to reverse them.

9. Pride and/or chauvinism prevent most Canadians from emphasizing their similarity to and dependence on their more powerful Southern neighbors. But when all is said and done, the only significant difference betwen the two countries that even someone such as Trudeau can point to is that Canada is allegedly a "mosaic" rather than a "melting pot." See Pierre Elliott Trudeau, "The Values of a Just Society," in Thomas S. Axworthy and Pierre Elliott Trudeau, eds., *Toward a Just Society: The Trudeau Years* (Markham, Ont.: Penguin, 1990), p. 365. After the critiques of people such as Nathan Glazer and the tribulations of "multiculturalism," it is difficult today to find anyone who thinks that the mythical "melting pot" has melted anything other than the dream of a homogeneous American society. To the extent, however, that Canada has not experienced anything comparable to the US Civil War (Quebec separatism is a minor annoyance in comparison), the process of centralization has been much more difficult and Canadian provinces retain considerably more autonomy than the states in the US.

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thus able to guarantee minimal axiological homogeneity among the otherwise culturally diverse regional entities constituting the federation. How could anyone possibly object? But by ignoring the *historicity* of the present crisis, i.e., its rootedness in the collapse of bureaucratic centralism as a global phenomenon by no means limited to the former Soviet Union,[10] Johnstone occludes the unpalatable fact that the old Marxist critique was correct in at least one respect: the inherent instability of a constantly expanding capitalism becoming increasingly centralized. The standard Marxist solution — further centralization — only compounds the original problem, leaving all systems that undertake a similar approach vulnerable to all the fatal pathologies of bureaucratic centralism. In other words, the social democratic model (or its New Deal variant in the US) is and has always been an unstable syncretism — bureaucratic centralism with a human face — kept viable only by the military Keynesianism hitherto legitimated by the recently collapsed bipolar world system (i.e., the *de facto* state of emergency). Similarly, the rights-oriented liberal-federalism Johnstone advocates is neither culturally neutral nor politically innovative. When all is said and done, what he proposes for a Canada which is yet to come together as a fully autonomous country (the Canadian Constitution was repatriated from England only in 1982, and no difinitive constitutional agreement has been reached yet) is nothing more than the US political model as it has become after two centuries of the gradual erosion of federalism,[11] without realizing that its democratic-federal character has been destroyed precisely by liberal guarantees such as, e.g., that Bill of Rights initially meant to circumscribe the central government and safeguard an ambiguously defined democratic ethos (predicated on the abstraction "the people" rather than on concrete individuals living in particular communities and sharing a common culture and history).

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10. Cf. Paul Piccone, "Paradoxes of *Perestroika*," in *Telos 84* (Summer 1990), pp. 3-32.

11. As in the case of Toronto's ability to stop the development of the Spadina expressway in the 1960s on the basis of disastrous US experiences with urban planning, and thus avoid the "Southbronxification" of what have remained thriving sections of one of North America's most livable large cities, Canada could once again learn from US mistakes in the process of finalizing its Constitution, thus avoiding Washington's present bureaucratic involution. The rejections of both the Meech Lake and Charlottetown accords may be evidence that something of the kind is underway, although discussions concerning constitutional matters so far do not appear to be sufficiently clear concerning what is at stake.

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Rights, Statism and Cultural Pluralism

To criticize human or civil rights today is as popular as attacking "country, motherhood and apple pie" years ago, before the advent of gourmet desserts, feminism and postmodernism. In the wake of all the atrocities of the 20th century, rights have become the foundation of the new universal religion. They are used by the UN as the standards with which to evaluate particular countries and they have come to be regarded as the criterion of civility. Johnstone himself deploys them as the bedrock of a meaningful federalism. Since, as is well known, there are no free lunches, it is not inappropriate to inquire into the social and political costs of these rights. If, furthermore, bureaucratic centralism and statism are actually the major determinants of the present crisis, even more than Johnstone's capitalist cosmopolitanism, then it may not be inappropriate to ask about the possible complicity of rights in this crisis. After all, the bureaucratic apparatus does not grow "naturally" as flowers in the Spring and, historically, in the US significant expansions of the bureaucratic apparatus have been broadly supported only in the wake of serious national emergencies — such as wars or major depressions — on the promise to tackle otherwise seemingly insoluble problems.

The US Bill of Rights was originally demanded by the anti-federalists as protection against a powerful federal government becoming potentially unmanageable and a threat to freedom. Subsequently, civil rights were broadened following the Civil War and, in the early 1960s, Southern recalcitrance to desegregate fast enough.[12] In so doing, however, they also triggered considerable bureaucratic expansion and the centralization of political power. The recent development of an affirmative action bureaucracy allegedly to insure fairness in public practices, but actually meant to enforce an implicit quota system, is only the latest chapter in government involvement in protecting "the people" from . . . none other than government itself and those other social

12. Of course, it has been convincingly argued, both in the case of the Civil War and the federal-government mandated desegregation of the South following the 1954 *Brown* decision by the US Supreme Court, that the *deus ex machina* was not solely civil or human rights, but Northern industrial economic interests as well. As usual, moral considerations seem to be most compelling when they complement predominant economic interests. This does not entail, however, the reductivist Marxist argument that morality is simply a smokescreen for these predominant economic interests. As Miglio argues, New Class interests in the expansion of the public-sector bureaucratic apparatus are equally significant and have been systematically overlooked primarily thanks to the hegemony of liberal-Marxist ideology — New Class ideology *par excellence* — isolating capital exclusively as the *fons et origo malorum*. Cf. Gianfranco Miglio, *Una Costituzione per i Prossimi Trent'Anni Intervista sulla Terza Republica* (Bari: Laterza, 1990).

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agencies it indirectly controls through funding and subsidies. This is because, legally, these provisions can only be deployed against public entities embroiled in some form or other with the federal government. Since today the federal government has grown to embody almost half of the national economy and, at any rate, after the 1985 US Supreme Court *Garcia* decision, nothing any longer escapes in principle the reach of federal jurisdiction, the private has practically become the public. Instead of merely protecting individual prerogatives, however, constantly expanding rights and entitlements have tended to become primarily tools of social engineering mandating "politically correct" behavior while depoliticizing public life without, even according to liberals such as Mary Ann Glendon, actually serving "the strong tradition of protection for individual freedom for which the United States is justly reknown."[13]

If Johnstone is right in his analysis of the recent worldwide resurgence of particularity as a reaction to the homogenizing and depersonalizing logic of abstract universalism, and there seems to be little reason to doubt it, then the deployment of centrally-enforced individual rights is definitely not part of the answer but part of the problem. Individual rights are not axiologically neutral or naturally given — even if some well-known late 18th century declarations originally meant to undermine lingering feudal structures legitimating the absolute power of monarchs have claimed that all men (and, presumably, women as well) are automatically endowed with them. Johnstone emphasizes that they are paradigmatically "Western" and, notwithstanding his otherwise unquestionable commitment to tolerance, seems to have no qualms whatsoever about forcibly imposing them on non-Westerners. Ignoring for now the dogmatic ethnocentrism of this claim, there are problems either with the depth of the historical roots of these rights as well as with their being part of *all* of Western culture. There does not seem to be much mention of *individual* rights before the French and the American Revolutions, and even afterwards, at least until WWII and before the unchallenged US hegemony, they seem to be inextricably associated with only *part* of the Western world: that part dominated by Protestant culture.

Given the present seemingly universal popularity of individual, civil and human rights, Johnstone may be justified in uncritically advocating them without having to provide a systematic historical or theoretical

13. Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse* (New York: The Free Press, 1991), p. 171.

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justification. On closer scrutiny, however, individual rights turn out to be not only a rather recent development in the long history of natural rights, but their broader implications are much more problematic than Johnstone assumes. As Leo Strauss has pointed out in the first recent major treatise on natural rights (after a hiatus of almost a century), they are inextricably connected with the rise of early 19th century historicism,[14] after the French and the American revolutions had shaken the traditional belief in the *natural* character of institutions. The new emphasis on the *social* and therefore *contingent* character of these institutions (independent of apodictic transcendental moorings) presupposed the same constituting individuality at the foundation of legal positivism and helped pave the way for motorized legislation, the delegitimation of legality through the development of super-legality (i.e., the hypostatization of morality above and beyond legality), the end of the *jus publicum Europeaum*, and the general social disintegration which in the 20th century facilitated the rise of Nazism and Bolshevism as tendentially totalitarian regimes attempting to reintegrate the state and the individual by dissolving the latter in the former.[15]

This is not the place to reconstruct the long history of the doctrine of natural rights and its development into one of individual rights from its original full formulation as part of Stoic philosophy, its development in the *jus gentium* of Roman Law and Aquinas' systemization in the Middle Ages, down to its revival by Locke and Grotius, and as part of the main documents of the French and American Revolutions. The only point that needs to be made *via à vis* Johnstone's postulation of individual rights as the linchpin of a liberal federalism is that they are inextricably associated with a particular version of secularized Protestantism, are not necessarily the essence, and much less the culmination, of Western civilization, and that ultimately they are counterproductive and conducive to centralization, statism and the destabilization for the

14. Leo Strauss, *Natural Right and History* (Chicago: Chicago University Press, 1953), p. 34. As Strauss explains the decline of the doctrine: "When liberals . . . had to make a choice between natural right and the uninhibited cultivation of individuality," they chose the latter. *Ibid.*, p. 5. At any rate, it is clear to him that "The quarrel between the ancients and the moderns concerns eventually, and perhaps even from the very beginning, the status of 'individuality'." *Ibid.*, p. 323.

15. *Grosso modo*, this is the general trajectory of Carl Schmitt's analysis of the recent history of international law, culminating in the deployment of modern wars of total annihilation — a predicament contained during the Cold War only by the realization of the overwhelming destructive power of the newly-developed nuclear weapons. Cf. Carl Schmitt, *Der Nomos der Erde im Völkerrecht des Jus Publicum Europæum*, Second Edition (Berlin: Duncker & Humblot, 1974).

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very particular communities that federalism is allegedly meant to protect. Non-Protestant parts of Western civilization do not need to emphasize individual rights (or attempt to reconstruct a "civil society" of voluntary associations) because they retain a variety of traditional mediating institutions between individuals and the state, whose function is to constitute identity, define social roles and guarantee established patterns of collective behavior.[16]

As Guglielmo Ferrero has pointed out, by the time the French Revolution inherited the doctrine of natural rights, such a doctrine "at the time personified by Robespierre, was the daughter of Calvinism and Geneva was its holy city."[17] The shift of the doctrine from a Catholic theological framework to a Protestant one and its secularized successors also entailed a shift in favor of absolute political equality, to the point that the democracy it prefigured could only generate a legal positivism and a constitutionalism predicated entirely on individuals as the foundation of sovereignty. It is unnecessary here to discuss in detail the immense emancipatory impact of this change over the next two centuries in helping modernize those parts of the West where it

16. In spite of spectacular events that have decisively shapened collective consciousness, such as Galileo forced to recant, scores of innocent people broken at the wheels during the Counter Reformation, and the brutally repressive climate in Catholic countries responsible for, e.g., the decline of Spain as a world power, the popular contraposition of a liberating humanist-Protestant culture and Catholic traditionalism may be in need of revision. As Schmitt points out, at the beginning of the European conquest of the Americas, when the question of the status of Indians first arose concerning whether or not they were human beings like Europeans (i.e., whether their property and land could be freely appropriated by the conquerors, or whether the norms of the *jus inter gentes* of the Middle Ages applied in a world no longer defined exclusively in terms of the *respublica Christiana* of Europe, thus precluding such a possibility) it was the dominican theologian Francisco de Vitoria who vindicated the "humanity" of the Indians against the humanist Juan Gines Sepúlveda. Following Aristotle's *Politics* where barbarians, i.e., non-Greeks, are defined as "by nature slaves," Sepúlveda maintained that Indians were inferior beings: "The Spanish are above barbarians in the same way that man is above the ape." Although Sepúlveda lost out in 1550, the humanist tradition from Francis Bacon on retained this qualitative distinction, which 18th century German humanists refined with the introduction of concepts such as *Unmenschen*, later to evolve into the 19th century distinction between *supermen* and *subhumans (untermenschen)*. See Carl Schmitt, *Der Nomos der Erde*, *op. cit.*, pp. 69ff. The extent to which the lack of mediating institutions fostering the internalization of collectively shared norms within Protestant culture has contributed to, e.g., racism, in contraposition to, e.g., Catholic or Jewish cultures which have been much more tolerant in this respect (probably as a result of a lingering strong sense of community), remains to be investigated.

17. Guglielmo Ferrero, *Le Due Rivoluzioni Francesi*, trans. by Giacinta Gennusa, (Milan: SugarCo Edizioni, 1986), p. 159.

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became widely accepted and the economic possibilities which were opened by the political freedom it engendered.[18] The only two points that need to be made against Johnstone's hypostatization to the level of the *universality* of this *culturally specific* doctrine of individual rights is that it does constitute a covert case of what has come to be called "cultural imperialism" and tends to undermine the heterogeneity of any federal system that uncritically adapts it in its federal constitution. Not only does its particularistic cultural pedigree contradict the cultural neutrality of a federal constitution, if such a federal system wants to seriously avoid turning into a traditional unitary nation-state against which, e.g., Trudeau has strongly polemicized from the very beginning of his political career, then individual rights have to be left out of the federal constitution to be reformulated, modified and adapted by the particular federating units. Otherwise, as the history of US federalism clearly shows, power will gradually gravitate to the center, to the detriment of the increasingly irrelevant and marginalized federating units.

The point is not that individual rights should not be protected, but that attempting to guarantee these rights by embedding them in the federal Constitution is no assurance that they will be respected. The Bill of Rights and post-Civil War civil rights legislation had been in force for many decades before desegregation was finally undertaken in the US, not because of a sudden "correct reading" of the relevant documents, but because of changed socio-economic conditions and of the development of a sufficiently committed political will. Similarly, as the history of race relations in the US during the past thirty years seems to show, these "rights" cannot be effectively enforced by a powerful central government *unless* they have already been substantially internalized by the polity as predominant cultural norms. Otherwise, individual rights tend to become pretexts for the centralization of power and the systematic penetration and subsequent disintegration of local autonomy and cultural specificity. The fact that this argument can be used to support abominable practices such as slavery does not make it any less compelling. Either there is democracy, cultural specificity and local autonomy, or there is no real freedom and diversity. There is no basis whatsoever for liberal democratic assumptions that democracy

18. Contrary to widespread Weberian mythology, the immense energy released by these developments had little to do with the Protestant ethic, but was primarily a result of the new political freedom. See Luciano Pellicani, *The Genesis of Capitalism and the Origins of Modernity*, trans. by James G. Colbert (New York: Telos Press, 1993); and "Symposium on Weber's *The Protestant Ethic*" in *Telos* 78 (Winter 1988-89), pp. 71-108.

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inevitably yields liberal outcomes, *unless* there is already a prior axiological homogeneity in the polity. Freedom implies risks which cannot be simply guaranteed out of existence by legal documents. There is an inherent conflict within federalism concerning what constitutes minimal acceptable homogeneity. Recent experience with the centralization and the gradual elimination of federalism in the US, however, suggests that the principle of subsidiarity may be profitably applied to individual rights, leaving their protection to units lower than the federal government.

Here the emphasis on local autonomy and community is not a nostalgic longing for an imagined past, but the consequence of the realization that, as Johnstone argues, a consumerist culture predicated on few abstract values is not conducive to the constitution of individuality. As the old Frankfurt School studies on the "authoritarian personality" indicated,[19] without this individuality traditional community structures disintegrate and leave the polity vulnerable to demagogic appeals by authoritarian organizations such as the Nazis. Johnstone senses all this in his vindication of the "old peasants." Since, however, he remains trapped within the liberal-Marxist model he is criticizing, he can only blame capitalism as the culprit, thus exculpating its equally guilty twin brother, the state.

The scenario is all too familiar, and Johnstone's implicit theodicy ends up contraposing the abstract universalism of a ruthless homogenizing capitalism to the wisdom of "old peasants" stubbornly defending their cultural particularity. Within such a context the solution is obvious: regulate capitalism so it will not do too much damage, while limiting the old peasants' wisdom to, e.g., making goat cheese and singing traditional songs while wearing *Lederhosen*, without occasionally scalping their enemies, cutting off their women's clitorises or cooking foreigners. It is none other than Trudeau's vision of Canada as an improved version of the US! Here, however, it becomes difficult to understand why the country is unable to agree on a permanent Constitution and is threatening to come apart after having rejected two laboriously negotiated compromises. It is all too easy to simply blame it on Quebec's separatism — something that has been consistently rejected in Quebec

19. While constituting the weakest part of the Frankfurt legacy, at least in as far as they dogmatically presuppose as "normal" a questionable liberal personality structure, these studies did contribute to locate community and family as the main agencies of socialization, without which pathological personality structures are likely to develop. For a critique of the studies on the authoritarian personality, see Christopher Lasch, *The True and Only Heaven: Progress and its Critics* (New York: Norton, 1991).

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itself and will continue to thrive only as the specific demand of a small but vocal nationalist minority.

The answer may be surprisingly simple. Notwithstanding all of its desirable features which, as Johnstone rightly emphasizes, are the envy of the rest of the world, Canada, as a centralized *country* with only residual federal prerogatives grudgingly accorded to the provinces, may no longer make much sense and Canadians may be beginning to express this still vague and undefined unease through their negative votes.[20] With the continental homogenization of socio-economic policies mandated by the North American Free Trade Agreement (NAFTA), it becomes increasingly unclear what role is played by the embarassingly artificial straight line running from Lake Superior to the Pacific (or, for that matter, the erratic flow of the Rio Grande separating Mexico from the US). Johnstone is therefore more coherent than he may suspect in coupling his defense of a statist liberal federalism with a violent rejection of the Free Trade Agreement. Much like European unification, NAFTA lays the economic preconditions for the eventual abolition of political barriers after economic imperatives will have eroded them into meaninglessness, thus threatening the integrity of the original but increasingly obsolete *national* units. What this arrangment prefigures is a new federal structure with a necessarily limited central authority and strengthened regional units.

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20. Johnstone insists that "Trudeau's individualistic federalism" should "not be confused with unitary statism." Yet, throughout Canada, Trudeau is rightly seen by supporters as well as opponents as the architect of a highly centralized nation-state unfortunately still shackled by fading residual provincial prerogatives. This is how two of his biographers portray the political confrontation towards the end of his tenure as Prime Minister: "There he was, the resolute nation-builder . . . Against him was ranged a band of parochial premiers with retrograde attachments to provincial autonomy and parliamentary sovereignty." Stephen Clarkson and Christine McCall, *Trudeau and Our Times*, Vol. 1 "The Magnificent Obsession" (Toronto: McClelland & Stewart Inc., 1990), p. 274. At any rate, while Trudeau has consistently fought *nationalism*, he has simultaneously always argued for a strong Canadian *nation*, fearing that, otherwise, "the provinces would endanger Canada's survival as a country." This is why Trudeau was appalled by the provincial premiers' objections to the reference, in a draft of the Canadian Constitution to the "Canadian people" and the "Canadian nation," while strongly advocating the Charter of Rights. Trudeau, "The Values of a Just Society, *op. cit.*, p. 376. As constitutional theorists have consistently pointed out, however, nothing destroys a federation faster than an appeal to "the people" and "the nation," above and beyond the sovereignty of the federating units. See See Carl Schmitt, "The Constitutional Theory of the Federation (1928)," in *Telos* 91 (Spring 1992), pp. 55ff. Contrary to Johnstone's claims, it is not immediately obvious whether the decentralized character of, e.g., the Canadian welfare system, health services, education, etc. is really due to concerns for local autonomy or to the fact that in a geographically immense country such a Canada it would be practically impossible to run them in any other way.

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Is Canada Obsolete?

Far from encouraging the creation of a massive North American mega-state spanning from the North Pole to the Panama Canal, however, the growing crisis of bureaucratic centralism and administrative unaccountability everywhere in the West is also triggering decentralizing calls for subsidiarity, i.e., the devolution of administration to the lowest possible level and, concurrently, the encouragement of direct democracy at a more manageable grass-roots level — the only one where democracy is feasible and where Johnstone's "old peasants" could possibly have a say concerning decisions effecting their lives.

As a country which, as McConkey provocatively points out,[21] has come together almost by accident, Canada may no longer make much sense within a North American continent whose economic life has been standardized by NAFTA. A demographic rope thousands of miles long but only a few miles deep, stretching from St. John's to Vancouver, Canada's original *raison d'etre* was its refusal to join the rebellious colonies in breaking with England and, subsequently, a vague sense of economic and institutional autonomy. The recent repatriation of the Canadian Constitution has removed the last vestige of the first, while the implementation of NAFTA threatens to eliminate whatever there was of the second. Consequently, it will increasingly make sense to reorganize politically the North American continent along more meaningful mega-regional lines where, e.g., the interests of the maritime provinces need not be homogenized with the rather different interests of the Western or Great Plains provinces, but would fit a lot more naturally with those of Maine and New Hampshire — all within a broader North American federation.

In his brief remarks about the constitutional theory of federation,[22] Schmitt pointed out that one of the preconditions for such an undertaking is a "substantial homogeneity" among the federating units, understood not in terms of ethnicity, but objective interests, culture, language, etc. — the kind of *de facto* homogeneity obtaining not only among the Canadian provinces, but also between the US and Canada. NAFTA is clearly not a federal contract in the strict sense of the term. Yet, like the customs unions of the 19th century which were merely international agreements not affecting the existential political status of

21. See Mike McConkey, "Individuals, Communities and Mounties Reply to Johnstone," in this issue of *Telos*.

22. Carl Schmitt, "The Constitutional Theory of the Federation (1928)" in *Telos* 91 (Summer 1992), p. 37.

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the participating country, but prefiguring future federal arrangements,[23] NAFTA practically abolishes all economic barriers, thus removing the last few remaining differences between the US and Canada and paving the way for a new continental political organization. Since federations are not eternal, but subject to restructuring depending on changing historical conditions, it may be only a matter of time before questions of political realignments will be raised on both sides of the present, increasingly meaningless, borders.

This state of affairs bothers Johnstone, who sees it not merely as a threat to Canadian sovereignty, but also a major economic threat. Thus he blames the recent economic decline on a much milder Canada-US Free Trade Agreement and warns about an even worse decline if the broader North American version goes into effect. Aside from a series of questionable statistics, however, he nowhere shows the extent to which the recent economic downturn is causally related to free trade rather than the general economic recession precipitated worldwide by the drastic decline of military Keynesianism. Similarly, it is unclear that what he calls "the devastation of Canada's manufacturing heartland" — actually the upper crust of the US rust-belt — is being devastated by free trade or by global economic trends which have rendered the traditional manufacturing sectors of all advanced industrial societies obsolete.

A more careful analysis of the Canadian economic crisis would reveal that it is not uniformly affecting every Canadian industry. As in the US and Western Europe, the industrial sectors in serious trouble are mostly in manufacturing, and this is something completely foreseeable as a result of the industrialization of the Third World and the substantial cuts in defense spending following the end of the Cold War. The myriad of small, flexible high-tech industries which have sprung up during the past three decades all along the QEW or Route 401 from Toronto to Hamilton or Fort Erie, keep thriving and growing precisely in that world market that Johnstone wants his "old peasants" to shut out of Canada. Anyway, Johnstone's "old peasants" are none other than the workers employed in traditional manufacturing industries presently in crisis all over advanced industrial societies.They cannot be protected by closing national borders without irreparably damaging the rest of the economy.

The solution to the present economic quandary does not lie in the kind of traditional pork-barrel politics (Clintonomics?) that Johnstone

23. *Ibid.*, p. 28.

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uncritically buys into. Euphemisms such as "investments" and "growth" ultimately conceal more of the same wasteful government spending that has characterized bureaucratic-centralist initiatives in the US since the beginning of the New Deal. Re-training for industrial jobs that do not exist is not going to benefit anyone but well-paid New Class operatives employed by the state to run these programs. What needs to be done is to facilitate the displacement of the traditional workers which, far from having anything to do with the "revolutionary proletariat" of the old Marxist mythology, were in fact expected to be docile producers and cretinized consumers manipulated by an industrial bureaucracy no different from the one administering the equally inefficient and obsolete sprawling state apparatus — and similarly condemned to extinction, along with its communist counterpart, as a result of the natural unfolding of its own internal logic.

Unlike the old Marxism which sought to solve the crisis of capitalism by universalizing the workers' lot (no one in the 20th century believed in the fairytale about planting in the morning, fishing in the afternoon and doing literary criticism in the evening), as Miglio has suggested, the "worker" of the rapidly rusting megafactories of Detroit, Cleveland or Oshawa must be replaced by the "collaborator" of small, organic enterprises made possible by the new technological developments. Much more efficient, flexible and accountable than the old industrial dinosaurs, the division of labor within these new enterprises is not as rigid and, consequently, is conducive to a more egalitarian internal distribution of revenues. Far from becoming what Gramsci described as the "trained gorilla" of the assembly line (which, instead of entertaining the sort of revolutionary ideas Gramsci hypothesized, was doped with the cultural narcotics mass produced by the entertainment industry), the "collaborator" becomes an integral part of an organic economic unit. Since most of the capital in these new knowledge-intensive technologies is cultural, the terroristic mobility of the old transnational capital will also give way to the geographical rootedness of the people themselves. Most surprising of all, this shift does not require a revolution since this industrial decentralization seems to be becoming increasingly the capitalists' preferred solution for industrial gigantism: one of the most promising way for capital to remain profitable in the post-IBM world of industrial federalism. In a nutshell Johnstone's "old peasants" ought to consider retirement and let their sons and daughters, the "new peasants," build a new federal-populist world out of the ruins of the old one.

At any rate, the euphemism "fair trade" that Johnstone proposes does

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not look all that different from traditional protectionism which, in the case of a Canadian economy vitally dependent on that of its much larger Southern neighbor, makes absolutely no sense. Of course, unemployment is a serious problem and so is the protection of a community's economic well-being. Today, however, this cannot be done by opposing NAFTA[24] by closing one's borders and coddling increasingly non-competitive industries. While such a strategy may have made sense for *industrializing* countries attempting to develop a national infrastructure, it is counterproductive for internationally integrated economies such as the Canadian one. When all is said and done, however, Johnstone's "populist" defense of local Canadian interests boils down to a defense of the Canadian welfare state and the central bureaucratic apparatus which provides considerably more services that its US counterpart, beginning with health services. Since, to reiterate, there are no free lunches, and the naive social-democratic assumption that "businesses" can be made to pay for it is simply electoral rhetoric (overhead costs are invariably passed on to consumers), the real issue is whether these services ought to be controlled by a massive central bureaucracy or run entirely at a more responsible and accountable local level independently of either Ottawa or Washington. Here once again it becomes evident how easily an originally democratic impulse not rooted in concrete local communities readily degenerates into an apology for bureaucratic centralism.

Johnstone is right in seeing federalism primarily in terms of balance. In the present highly unbalanced situation in favor of the central government, however, a Canadian and US federal-populist critique need not worry too much about clitorectomy or cannibalism, but rather about Ottowa and a Charter of Rights threatening to homogenize all provinces into a unitary nation-state by appealing directly to "the Canadian people," above and beyond the concrete provinces and particular local constituencies where all people actually live.

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24. Standard liberal-marxist critiques of NAFTA so far have not gone beyond indicting transnational capitalism for the nth time, as if after the collapse of "really existing socialism" and the growing crisis of European social democracies there were any other game in town. Cf. Noam Chomsky "Notes on NAFTA: The Masters of Mankind," in *The Nation* (March 29, 1993), pp. 412-416. Robert Reich's *The Work of Nation: Preparing Ourselves for 21st Century Capitalism* (New York: Knopf, 1991), contains hints of a post-Fordist solution, but his scenario leaves the world divided between high-tech cosmopolitan operators (symbolic analysts) and unskilled unemployable dullards (the bottom four-fifths) with no meaningful future prospects. His call for "positive economic nationalism," along with his subsequent promises, as Secretary of Labor, to retrain the unemployed American workforce for jobs that do not exist, remains ideological smoke as long as it continues to be divorced from a project of community reconstitution. Such a project cannot be planned in Washington and financed through growing deficits.

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A Girardian Reading of Schmitt's Political Theology

Wolfgang Palaver

One of the more intriguing things in Carl Schmitt's *Political Theology* (1922) is the parallels he draws between Thomas Hobbes (1588-1679) and Juan Donoso Cortés (1809-1853). According to Schmitt both are representatives of decisionism: "Donoso Cortés, one of the foremost representatives of decisionist thinking and a Catholic philosopher of the state . . . concluded in reference to the revolution of 1848, that the epoch of royalism was at an end. Royalism is no longer because there are no kings. Therefore legitimacy no longer exists in the traditional sense. For him there was thus only one solution: dictatorship. It is the solution that Hobbes also reached by the same kind of decisionist thinking, though mixed with mathematical relativism. *Autoritas, non veritas facit legem*."[1]

Hobbes and Donoso Cortés represent two opposite poles in modern political philosophy.[2] Hobbes wanted to neutralize all religious truths

1. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. by George Schwab, Second Edition (Cambridge: MIT Press, 1988), pp. 51f. Schmitt already emphasized parallels between Hobbes and counterrevolutionary thinkers in their attitude towards decisionism in *Die Diktatur* (1921) and cited de Maistre (1753-1821) as an example. See Carl Schmitt, *Die Diktatur: Von den Anfängen des modernen Souveränitätsgedankens bis zum proletarischen Klassenkampf*, Fourth Edition (Berlin: Duncker & Humblot, 1978), pp. xix and 23.

2. Herfried Münkler, "Carl Schmitt und Thomas Hobbes," in *Neue Politische Literatur*, XXIX (1984), pp. 352-356. The opposition of Hobbes and Donoso Cortés is illustrated by current discussions about fundamentalism. Hobbes solved the political problem concerning whether human beings ought to obey God rather than men (Acts 5:29) by making the political sovereign the sole interpreter of this predicament. Any reference to something outside the political system is therefore impossible. See Robert

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in order to create peace during times of religious war. Authority should replace any particular truth. His state is a creator of peace (*creator pacis*). He rejected Catholic concepts of the state that sought to justify religious interference in state matters. In his *Leviathan* (1651) he dealt in detail with Robert Bellarmin's (1542-1621) position that the pope has indirect jurisdiction in temporal matters.[3] According to Hobbes, indirect power is just as dangerous as direct power because it threatens the stability of the state. This opposition to the Catholic concept of the state resulted in Hobbes' *Leviathan* being placed on the Catholic Index as early as 1656.

The other pole is Donoso Cortés. His solution consisted in the dictatorial establishment of Catholic truth. In order to last, a state must be based on Catholic doctrine.[4] Donoso's state is a defender of peace (*defensor pacis*). In accordance with Catholic traditions, Donoso rejected Hobbes as an enemy: an atheist against whom he had to protest "in the name of all of humanity."[5]

It is odd that Schmitt associates Hobbes and Donoso in *Political Theology*. Furthermore, throughout his life Schmitt repeatedly came back to these two thinkers. George Schwab tried to explain this by assigning Donoso and Hobbes to different periods in Schmitt's theoretical development. Accordingly, the theological counterrevolutionary that had once concerned Schmitt receded from his thought in the 1920s when thinkers like Hobbes came into the picture.[6] This is why Schwab called Schmitt the "Hobbes of the twentieth century."[7] Likewise, Paul Gottfried argues that Schmitt began as a Catholic apologist but later sided

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Spaemann, "Das Wort sie sollen lassen stahn: Versuch über den Fundamentalismus," in *Die Zeit*, No. 52 (December 22, 1989), pp. 47f. Contrary to Hobbes, Donoso can be seen as the last Catholic political fundamentalist of high intellectual standing. See Iring Fetscher, "Diktatur des Säbels: Die politische Gedankenwelt des spanischen Konservativen Juan Donoso Cortés," in *Die Zeit*, No. 40 (September 28, 1990), p. 67.

3. Thomas Hobbes, *Leviathan*, Edited with an Introduction by C. B. Macpherson (Harmondsworth, England: Penguin Books, 1984), chap. 42, pp. 576-609.

4. Juan Donoso Cortés, *Essay on Catholicism, Liberalism and Socialism*, trans. by M. V. Goddard, with a new Introduction by F. D. Wilhelmsen (Albany, NY: Preserving Christian Publications, 1991), p. 36: "Catholicism, in deifying authority, sanctified obedience; and, in deifying the one and sanctifying the other, condemned pride in its most terrible manifestations, the spirit of domination and that of rebellion. Two things are entirely impossible in a truly Catholic society, despotism and revolutions."

5. See Günter Maschke, "Die Zweideutigkeit der 'Entscheidung' — Thomas Hobbes und Juan Donoso Cortés im Werk Carl Schmitts," in Helmut Quaritsch, ed., *Complexio Oppositorum: Über Carl Schmitt. Vorträge und Diskussionsbeiträge des 28. Sonderseminars 1986 der Hochschule für Verwaltungswissenschaften Speyer* (Berlin: Duncker & Humblot, 1988), p. 208f.

6. George Schwab, *The Challenge of the Exception: An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936*, 2nd edition with a New Introduction (New York: Greenwood Press 1989), p. 25.

7. Schwab, "Introduction," in Schmitt, *Theology*, *op. cit.*, p. xxvi.

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with Bodin and Hobbes.[8] According to Gottfried, Schmitt's autobiographical writings confirm Schwab's thesis. As evidence he points to Schmitt's apologetic postwar journal *Ex captivitate Salus* in which both Hobbes and Bodin are mentioned without any reference to Donoso.[9]

Günter Maschke provides an alternative account. He sees Schmitt not as a modern Hobbes but as the "Donoso of the twentieth century."[10] According to Maschke, like Donoso Schmitt always remained a theologian.[11] His shift from the church to the state — and therefore from Donoso to Hobbes — is not a change of position but the result of the increased secularization of society. Having acknowledged the development of secularization, Schmitt was led to Hobbes.[12]

Both accounts are ultimately unconvincing. Schwab cannot explain why Schmitt repeatedly returned to Donoso, to the point of publishing a book on him long after he had allegedly shifted to Hobbes.[13] Schmitt even included two articles on Donoso (written respectively in 1927 and 1929) in his 1940 *Positionen und Begriffe*.[14] In view of the fact that the Nazis criticized Schmitt as a closet Catholic in 1936, the only explanation for the publication of these two articles is Schmitt's continued support for Donoso's theological-political position.[15] Schmitt would not have dared publish these articles had he really abandoned his Catholic position. Schwab's thesis seems even more tenuous after the publication of Schmitt's 1947-51notes. There Schmitt also identified identified Donoso

8. Paul Gottfried, "Confronting 'The Challenge of the Exception': George Schwab as an Interpreter of Carl Schmitt," in *The Political Science Reviewer* 20 (1991), pp. 277 and 281. Cf. Paul Gottfried, *Carl Schmitt: Politics and Theory* (New York: Greenwood Press, 1990), pp. 25f; G.L. Ulmen, "Politische Theologie und politische Ökonomie — über Carl Schmitt und Max Weber," in H. Quaritsch, ed., *Complexio*, *op. cit.*, pp. 342f.

9. Carl Schmitt, *Ex Captivitate Salus: Erfahrungen der Zeit 1945/47* (Köln: Greven Verlag, 1950), pp. 63-68.

10. Maschke, *Zweideutigkeit*, *op. cit.*, p. 199. See also Günter Maschke, "La Rappresentazione Cattolica: Carl Schmitts Politische Theologie mit Blick auf italienische Beiträge," in *Der Staat* 28 (1989), p. 568

11. Maschke, *Rappresentazione*, *op. cit.*, p. 575.

12. *Ibid.*, p. 563. See also Günter Maschke, "Drei Motive im Anti-Liberalismus Carl Schmitts," in Klaus Hansen and Hans Lietzmann, eds., *Carl Schmitt und die Liberalismuskritik* (Opladen: Leske Budrich, 1988), p. 74; Günter Meuter, "Zum Begriff der Transzendenz bei Carl Schmitt," in *Der Staat* 30 (1991), pp. 511ff.

13. Carl Schmitt, *Donoso Cortés in gesamteuropäischer Interpretation: Vier Aufsätze* (Köln: Greven Verlag, 1950). The four articles included in this book were written during very different periods of Schmitt's life: 1922, 1927, 1929 and 1944.

14. Carl Schmitt, *Positionen und Begriffe im Kampf mit Weimar-Genf-Versailles 1923-1939* (Hamburg: Hanseatische Verlagsanstalt, 1940).

15. Cf. Helmut Quaritsch, *Positionen und Begriffe Carl Schmitts*, 2nd edition (Berlin: Duncker & Humblot, 1991), pp. 31f.

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as one of his personal saints, along with Hobbes and Bodin.[16]

Actually it is questionable whether in Schmitt's work there really was a shift to Hobbes and not the other way around. In his famous review of *The Concept of the Political* Leo Strauss pointed out that in the 1927 version of this book Schmitt described Hobbes as "by far the greatest and perhaps the only truly systematic political thinker" whereas in the second edition Hobbes is reclassified merely as "a great and truly systematic political thinker."[17] According to Strauss this shift is due to the fact that, in the Schmittian sense of "political," Schmitt increasingly treats Hobbes as "*the* antipolitical thinker." Heinrich Meier accepts Strauss' thesis and argues further that the third edition of *The Concept of the Political* is Schmitt's indirect answer to Strauss' review.[18] Schmitt's growing distance from Hobbes, his stronger emphasis on original sin, and other changes in the 1933 edition of *The Concept of the Political*[19] lead Meier to the conclusion that Strauss' challenging review brought Schmitt's theological premises to light.[20] Accordingly, Schmitt's work is seen essentially as political theology.[21] The development of Schmitt's *The Concept of the Political* from 1927 to 1933 is away from Hobbes and increasingly towards Donoso. At any rate, even if Schwab were right he does not convincingly explain why Schmitt associates Hobbes and Donoso in *Political Theology*.

On the other hand, while Maschke stresses the theological thread running throughout Schmitt's work, he fails to see the incompatibility

16. Carl Schmitt, *Glossarium: Aufzeichnungen der Jahre 1947-1951*, ed. by Eberhard Freiherr von Medem (Berlin: Duncker & Humblot, 1991), p. 91: "February 3, 1948: In meinem heiligen Kalender stehen nicht nur Bodin und Th. Hobbes, sondern auch Donoso Cortés und Augustin Cochin und alle Unzeitgemäßen, soweit sie ihre Unzeitgemäßheit nicht, wie Nietzsche, als Reklametrick benutzt haben, alle ehrlich Verzweifelten, soweit sie sich nicht wie Kleist durch Selbstmord selbst geholfen haben."

17. Leo Strauss, "Comments on Carl Schmitt's *Der Begriff des Politischen*," in Carl Schmitt, *The Concept of the Political*, Translation, Introduction, and Notes by George Schwab (New Brunswick, Rutgers University Press, 1976), p. 90.

18. Heinrich Meier, *Carl Schmitt, Leo Strauss und "Der Begriff des Politischen" : Zu einem Dialog unter Abwesenden*. Mit Leo Strauss' Aufsatz über den "Begriff des Politischen" und drei unveröffentlichten Briefen an Carl Schmitt aus den Jahren 1932/33 (Stuttgart: Metzlersche Verlagsbuchhandlung, 1988), pp. 42-45.

19. Carl Schmitt, *Der Begriff des Politischen*, 3rd edition (Hamburg: Hanseatische Verlagsanstalt, 1933), p. 46.

20. Meier, *Schmitt, op. cit.*, p. 76.

21. *Ibid.*, pp. 85f. Like Meier, Reinhard Mehring also emphasizes the theological foundations of Schmitt's whole *opus*. See Reinhard Mehring, *Pathetisches Denken: Carl Schmitts Denkweg am Leitfaden Hegel: Katholische Grundstellung und antimarxistische Hegelstrategie* (Berlin: Duncker & Humblot, 1989); *Carl Schmitt zur Einführung* (Hamburg: Junius, 1992). Cf. also Klaus-Dieter Scheer, "Die aufgehobene Theokratie: Zur politischen Theologie Carl Schmitts," in Dietmar Kamper and Christoph Wolf, eds., *Das Heilige: Seine Spur in der Moderne* (Frankfurt am Main: Athenäum, 1987), pp. 441-449.

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between Schmitt's theology and Christianity. Furthermore, Maschke never satisfactorily explains the theological similarity between Hobbes and Donoso. He claims that the parallel between Hobbes and Donoso illustrates an ambiguity in Schmitt's concept of "decision." Maschke may be right with regard to Schmitt's writings as a whole, but in *Political Theology* Schmitt is quite clear about what he means by decisionism.[22]

Still, Schmitt sees a common ground between Hobbes and Donoso that these interpreters miss. The following will analyze Schmitt's *Political Theology* and, to a lesser extent, the political philosophies of Hobbes and Donoso from the viewpoint of René Girard's anthropological theory. Such an account will not only help explain the common roots of Hobbes and Donoso but will also provide a new and clearer interpretation of Schmitt's work in general. Girard's approach also allows a better appreciation of the theological elements in Hobbes, Donoso, and Schmitt, without uncritically merging their theology with Christianity.[23]

René Girard's Anthropology[24]

Girard's point of departure is that human beings are characterized by mutual imitation. In this respect, in principle human beings are not different from other mammals except that the importance of imitation

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22. Helmut Spinner raised this objection when Maschke first presented his thesis. See Quaritsch, ed., *Complexio*, *op. cit.*, pp. 225f. Gottfried has also emphasized that Schmitt really brought Hobbes and Donoso together even if he dealt with them in unexpected ways. See Gottfried, *Schmitt*, *op. cit.*, p. 50.

23. In a review of Schmitt's recently published notes Heinrich Meier emphasizes the need to take Schmitt's theological view of himself seriously. See Heinrich Meier, "Freund Jünger als Feind," in *Der Spiegel*, No. 31 (1991), pp. 171f.

24. René Girard, *Deceit, Desire, and the Novel: Self and Other in Literary Structure*, trans. by Y. Freccero (Baltimore: The Johns Hopkins University Press, 1965); *Violence and the Sacred*, trans. by P. Gregory (Baltimore: The Johns Hopkins University Press, 1977); *"To Double Business Bound" : Essays on Literature, Mimesis, and Anthropology* (Baltimore: The Johns Hopkins University Press, 1978); *Things Hidden since the Foundation of the World*, research undertaken in collaboration with J.-M. Oughourlian and G. Lefort, trans. by S. Bann and M. Metteer (Stanford: Stanford University Press, 1987); *The Scapegoat*, trans. by Y. Freccero (Baltimore: The Johns Hopkins University Press, 1986); *Job: The Victim of His People*, trans. by Y. Freccero (Stanford: Stanford University Press, 1987); *A Theater of Envy: William Shakespeare* (New York and Oxford: Oxford University Press 1991). Cf. Robert G. Hamerton-Kelly, ed., *Violent Origins: Walter Burkert, René Girard, and Jonathan Z. Smith on Ritual Killing and Cultural Formation*, with an Introduction by B. Mack and a Commentary by R. Rosaldo (Stanford: Stanford University Press, 1987); Paul Dumouchel, ed., *Violence and Truth: On the Work of René Girard* (Stanford: Stanford University Press, 1988). For short introductions to Girard's theory, see Raymund Schwager, *Must There Be Scapegoats? Violence and Redemption in the Bible*, trans. by M. Assad (San Francisco: Harper & Row, 1987), pp. 1-42; Robert G. Hamerton-Kelly, *Sacred Violence: Paul's Hermeneutic of the Cross* (Minneapolis: Fortress Press, 1992), pp. 13-39.

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is significantly greater for the first. Unlike Plato and more or less the whole philosophical tradition that follows, Girard does not limit imitation to representational forms such as behavior, manner or forms of speaking but emphasizes the role of imitation in connection with appropriation. He is mainly concerned with mimetic desire or *mimesis*.[25] Human desire does not aim at a definite and original object. By itself the human subject does not know what to desire and, consequently, imitates the desire of others. Mimesis is easily observed in the behavior of children or among adults in the following of fashions and in the effectiveness of advertisement. As long as mimetic desire is oriented towards non-exclusive goods such as learning a language, imitation is unproblematic. But if an object is exclusive (social positions, sexual objects, etc.) the result of imitation is rivalry, conflict and violence. Hobbes described the result of mimetic rivalry for exclusive objects as follows: "If any two men desire the same thing, which nevertheless they cannot both enjoy, they become enemies; and in the way to their End, . . . endeavour to destroy, or subdue one another."[26]

Imitation is the driving force of rivalry causing it to grow, often leading to violence. This violence is also imitated and increasingly comes to dominate the rivals' relation . The more the conflict escalates the less important the object becomes until finally it disappears altogether. Instead, the antagonists focus their attention on each other and are drawn into a fight to the death. The more the rivals focus their antagonism on each other the more they become alike: mimetic doubles that try to destroy each other.

According to Girard, at the beginnings of human civilization there were no social institutions to control mimetic rivalry. The natural outcome was a general crisis because all were drawn into rivalries and violence. Hobbes' description of the state of nature is similar to Girard's account of this crisis: "During the time men live without a common Power to keep them all in awe, they are in that condition which is called Warre; and such a warre, as is of every man, against every man."[27]

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25. On Girard's concept of mimesis, see Paisley Livingston, *Models of Desire: René Girard and the Psychology of Mimesis* (Baltimore: The Johns Hopkins University Press, 1992). Like Girard, Benjamin also emphasizes mimesis in "On the Mimetic Faculty." He overlooks, however, the dangerous aspects of mimesis resulting from its role in desire and acquisition. See Walter Benjamin, *Reflections: Essays, Aphorisms, Autobiographical Writings*, trans. by Edmund Jephcott, edited with an Introduction by Peter Demetz (New York: Schocken Books, 1978), pp. 333-336. For a very broad discussion of "mimesis" in the Western tradition, see Gunter Gebauer and Christoph Wulf, *Mimesis: Kultur-Kunst-Gesellschaft* (Reinbek bei Hamburg: Rowohlts Enzyklopädie, 1992).

26. Hobbes, *op. cit.*, chap. 13, p. 184.

27. *Ibid.*, p. 185.

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Without a solution to this war of all against all, human beings would have disappeared because, unlike other mammals, no instinctive brakes prevent human beings from destroying themselves. But according to Girard, mimesis — the source of the crisis — also prefigures a solution. At the height of the crisis when all objects have disappeared, mimesis can unify because the scarce objects that created disunity have been replaced by hatred and violence between antagonists. Unlike scarce objects, violence against a rival can be shared. The arbitrary blow of one of the rivals against another can fascinate others to such a degree that they instinctively imitate this deed and join in striking the momentarily weaker individual. The war of all against all suddenly becomes a war of all against one. The single victim is expelled or killed. Girard calls this unconscious, collective deed the *scapegoat mechanism*.

The expelled or killed scapegoat is seen by the lynchers in two ways. He is blamed for the crisis and, as an absolute evil, must be expelled. But the sudden peace and reconciliation among the lynchers is also attributed to the scapegoat. He is seen simultaneously as both absolute evil and absolute good. This strange experience of both good and evil is the primitive religious experience. As Rudolf Otto pointed out, the sacred is *tremendum* and *fascinosum*. The latin root of the word sacred, *sacer*, originally meant something both cursed and blessed. The victim is sacralized and deified. He or she becomes a god.

According to Girard the scapegoat mechanism is the origin of religion and therefore also of culture. All central elements of religion and culture (myths, rites, prohibitions and social differentiations) become intelligible if seen in relation to the scapegoat mechanism. The *myth* tells the story of the killing from the perspective of the lynchers. The victim's innocence or arbitrariness, i.e., the truth about the mechanism of victimization, is unconsciously disguised.

Rites are the controlled and conscious repetition of the original mechanism. They strengthen the social bond if the crisis breaks out again. The most important form of rites are sacrifices. Most likely sacrifices developed from human to animal and finally to symbolic sacrifices.

Prohibitions or *taboos* are meant to prevent further outbreaks of violence. The victim's alleged "crimes" are forbidden. Very often mythical victims such as Oedipus are accused of having committed the crime of incest. The taboo following this crime is the prohibition of incest preventing the outbreak of violent rivalry caused by limited sexual objects.

The scapegoat mechanism also produces cultural and social *differentiations*. By transferring the violence of the group to the outside — to the victim — it creates spatial differentiation. Because of the victim's

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sacralization, this distinction is at the same time also the distinction between the sacred and the profane. The victim belongs to the realm of the sacred, the group to that of the profane. The scapegoat mechanism also generates the temporal order. The victim's death is the decisive moment: it separates between "before," i.e., the time of the crisis, and "after," i.e., the time of peace and order. The same is true of moral distinctions. During the crisis there was no good and bad, no truth and falsity. The scapegoat mechanism clarifies this uncertainty: the victim is guilty, the others are innocent. All social distinctions such as ranks, hierarchy and relations of subordination are based on this elementary differentiation. Their main function is to prevent a further outbreak of a mimetic crisis. Social differentiations channel mimesis in a way that diminish the possibility of rivalry.

Girard's account can explain the rise of myths and rituals in different cultures and epochs. In the case of biblical texts, however, he discovered two very different types of texts. Old Testament texts often function as myths. Human violence is disguised as divine violence that kills or expels. Many other parts of the Bible, however, take the opposite view. They side with the victim and expose the persecutors' violence. Penitential psalms, the dialogues in the book of Job, passages in the writings of the prophets — especially the Suffering Servant of Yahweh in Second Isaiah — describe the collective violence against an innocent victim. The climax in the Bible is the narrative of the passion in the New Testament. Like mythical texts, these narratives talk about collective violence against one. Unlike myths, however, they do not side with the persecutors, but reveal the innocence of the scapegoat Jesus. From a Girardian viewpoint, Christianity is therefore rather different from religion as such.[28] It is not rooted in the scapegoat mechanism but is meant to expose it.

Girard's emphasis on the uniqueness of biblical texts in their ability to overcome mythical patterns did not lead him to a blind and apologetic justification of Christian history. Historical Christianity did not realize the significance of these biblical texts and interpreted these passages

28. Here Girard comes very close to Dietrich Bonhoeffer's "non-religious" interpretation of Christianity. See Dietrich Bonhoeffer, *Letters and Papers from Prison*, The Enlarged Edition, edited by E. Bethge (New York: The Macmillan Company, 1971), pp. 300, 344, and 357-362. Cf. Roel Kaptein and Pieter Tijmes, *De Ander als Model en Obstakel: Een inleiding in het werk van René Girard* (Kampen: Kok Agora 1986) p. 118; Wolfgang Palaver, "Gleichheit als Sprengkraft? Zum Einfluß des Christentums auf die Entwicklung der Demokratie," in Józef Niewiadomski, ed., *Verweigerte Mündigkeit? Politische Kultur und Kirche* (Thaur: Österreichischer Kulturverlag 1989), pp. 209-216.

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in light of older sacrificial myths. Jesus' death was explained as a routine sacrifice in other religions. The unique insight that Jesus was the innocent victim of the people was lost. Human violence was projected onto Jesus' father. The people were once again able to disguise their own violence and feel innocent. This sacrificial reading of the texts enabled Christianity to found a culture not very different from other cultures rooted in the scapegoat mechanism.

In the long run, however, the biblical message could not be suppressed and eventually exposed the violent and sacrificial elements of Christian culture. This undermining of historical Christianity destroys the sacrificial brakes against human violence and rivalry. The immediate indirect result of Christianity properly understood is a mimetic crisis with all the ensuing violence and bloodshed. The immediate reaction would be to call for a restoration of the old sacrificial order to prevent such an outbreak of violence. Girard knows, however, that a return to the old constraints is not possible without the creation of a most appalling tyranny.[29] According to Girard, if in the long run humanity does not want to disappear it will have to follow the way of the Sermon on the Mount. "The definitive renunciation of violence . . . will become for us the condition *sine qua non* for the survival of humanity itself."[30]

In the first half of the 20th century a mimetic crisis did break out, resulting in two global wars and an enormous amount of bloodshed. In order to make sense out of Schmitt's writings, they must be read within this context. He did not appreciate the nonviolent message of the Sermon of the Mount as a possible solution to this crisis and was therefore forced to seek a return to some kind of sacrificial system.

A Girardian Interpretation of Schmitt's Political Theology

Little has been written on Girard and Schmitt.[31] Mohler mentions Girard in his effort to link Schmitt with the "Conservative Revolution."[32]

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29. Girard, *Things*, *op. cit.*, p. 286; *"To double . . ."*, *op. cit.*, p. 82.
30. Girard, *Things*, *op. cit.*, pp. 137 and 258.
31. Tijmes has pointed out some similarities between Schmitt's *Concept of the Political* and Girard's anthropology. See Pieter Tijmes, "Het politieke begrip van Schmitt," in *Filosofie & Praktijk*, No. 7/4 (1986), pp. 169-184. Arens also mentions some parallels between Schmitt and Girard. See Edmund Arens, "Dramatische Erlösungslehre aus der Perspektive einer theologischen Handlungstheorie," in Józef Niewiadomski and Wolfgang Palaver, eds., *Dramatische Erlösungslehre: Ein Symposion*, Innsbrucker theologische Studien 38 (Innsbruck: Tyrolia, 1992), p. 176.
32. Armin Mohler, "Carl Schmitt und die 'Konservative Revolution'," in Quaritsch, ed., *Complexio*, *op. cit.*, p. 139. See also Joseph W. Bendersky, "Carl Schmitt and the Conservative Revolution," in *Telos* 72 (Summer 1987), pp. 27-42.

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He argues that there are parallels between Schmitt and current postmodern thinkers such as Derrida, Girard, Foucault, Morin, and Serres.

At a recent symposium, Girard summarized his views and pointed out that the crisis of the "undecidable" is the precondition to every mythic order.[33] According to him, the scapegoat mechanism transforms disorder into order. A "decision" overcomes the crisis.[34] This formulation is similar to Schmitt's decisionism in *Political Theology* where he maintains that "like every other order, the legal order rests on a decision."[35] Girard's decisionism, however, seems to be different from Schmitt's. Girard's decision is an unconscious, violent, and collective act: it is the killing of the victim by the lynch mob. This mechanism of victimization overcomes the primordial chaos in the beginning of every civilization. Schmitt's decision, on the other hand, is neither unconscious nor collective. It is the decision of the sovereign in the exception, which is "a case of extreme peril, danger to the existence of the state."[36] Furthermore, Schmitt's exception is not simply chaos and anarchy, because in the state of exception there is still some order.[37] The law recedes but the state remains.

In terms of the question Schmitt tackles in *Political Theology* with his famous thesis that "sovereign is he who decides on the exception"[38] there is no obvious similarity between Girard and Schmitt. The first deals with the origin of culture, whereas the second is concerned with a solution to a dangerous crisis of the state, an already existing political order.

On a deeper level, however, this is not entirely accurate. in *Political Theology* Schmitt deals not only with decision in a situation of exception, but also with the relation between norm and decision or rule and

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33. René Girard, "Disorder and Order in Mythology," in Paisley Livingston, ed., *Disorder and Order: Proceedings of the Stanford International Symposium (Sept. 14-16, 1981)*, Stanford Literature Studies 1 (Saratoga: Anma Libri 1984), pp. 80-97.

34 *Ibid.*, p. 86. Cf. Paisley Livingston, "Introduction," in *ibid.*, p. 27: "Girard understands mythical and ritual representations as having arisen from the founding 'decision' in which social order is established in opposition to its 'other' — the scapegoat or victim. At the origin of the social order is disorder, namely, the crisis of violence brought by a heightening of the mimetic propensity that vitiates instinctual behavior patterns of dominance and submission." For interesting insights into the important role of violent decisions in the foundation of Roman culture, see Michel Serres, *Rome: The Book of Foundations*, trans. by Felicia McCarren (Stanford: Stanford University Press, 1991), p. 55.

35. Schmitt, *Theology*, *op. cit.*, p. 10. Cf. also Paul Hirst, "Carl Schmitt's Decisionism," in *Telos* 72 (Summer 1987), pp. 15-26.

36. *Ibid.*, p. 6.

37. *Ibid.*, p 12. This is not an "ordinary" order but one characterized by the sovereign's unlimited authority.

38. *Ibid.*, p. 5.

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exception. According to Schmitt the exception precedes the rule. In fact, the former gives rise to the latter: "The exception is more interesting than the rule. The rule proves nothing; the exception proves everything: It confirms not only the rule but also its existence, which derives only from the exception."[39] For Girard the relation between the scapegoat mechanism and the cultural order emerging out of it is similar to Schmitt's relation between exception and rule. The scapegoat mechanism is an exceptional situation at the height of a mimetic crisis. It creates the essential differences of time, space, and morality that make the subsequent order possible. As soon as peace is restored and normal cultural life is established, the direct act of scapegoating recedes. Normal life, the "rule," comes to the fore. But the scapegoat mechanism remains the hidden structural principle constituting the whole order. It is culture's "symbolic matrix."[40] Rituals are a controlled repetition of the original mechanism. Prohibitions forbid the scapegoat's "crimes" allegedly resulting in the violent chaos of the mimetic crisis. The direct violence of the scapegoat mechanism has been transformed into the structural violence of culture. As soon as another crisis occurs the original mechanism comes to the fore again.

When in *Political Theology* Schmitt deals with the the relation between decision and norm he also discusses the relation of these two principles to chaos. As with Girard's original decision that overcomes a primordial chaos, Schmitt also states that the priority of the decision is a function of the fact that "there exists no norm that is applicable to chaos."[41] Only a decision can create order "out of nothingness."[42] Of course, Schmitt's emphasis on the exception does not mean he advocated

39. *Ibid.*, p. 15.

40. Girard, *Things*, *op. cit.*, p. 162. The scapegoat mechanism itself is a model of the exception. Outlining a theory of signs and signification Girard emphasizes the model of the exception as the simplest symbolic system. Like the "short straw," which is the exception, the victim of the scapegoat mechanism is the transcendental signifier. He or she gives meaning to the order that emerges out of this mechanism. See *ibid.*, pp. 99-104.

41. Schmitt, *Theology*, *op. cit.*, p. 13. Cf. *Concept*, *op. cit.*, p. 46. This becomes clear in *Über die drei Arten des rechtswissenschaftlichen Denkens*. Although this book marks Schmitt's shift from pure decisionism toward concrete order thinking or an institutional type of legal thinking, his view that decisionism creates order out of disorder is crystal clear. Again, Hobbes is the classical example of a decisionist thinker: "In Hobbes the logical structure of decisionism becomes clearest, because pure decisionism presupposes *disorder* that becomes order through the fact that there *is* (not: *how*) a decision." See Carl Schmitt *Über die drei Arten des rechtswissenschaftlichen Denkens* (Hamburg: Hanseatische Verlagsanstalt, 1934), p. 28. On Schmitt's shift from pure decisionism towards concrete-order thinking, see also his preface to the second edition of *Political Theology*, *op. cit.*, pp. 2-4.

42. *Ibid.*, p. 66. Cf. also pp. 31f.: "Looked at normatively, the decision emanates from nothingness."

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disorder and chaos. Along with Girard, Schmitt is aware that chaos lurks behind every cultural, political and juridical order. Therefore he stresses the importance of every political and juridical order as the permanent prevention of chaos and war.[43]

On closer examination, Girard's anthropology and Schmitt's decisionism turn out to be very close. Nothing has been said so far about the violent or sacrificial dimension of Girard's original decision. Does violence also play a role in Schmitt's decisionism? Schmitt does not deal directly with this question in *Political Theology*. His later work, however, clearly shows that for him a violent deed is at the beginning of all law. In his reflections on the Greek word *nomos* he points out that the first and original meaning of this word is "*nehmen*," i.e., "to take."[44] According to Schmitt the acquisition of land (*Landnahme*) is the primordial act. Two examples to which Schmitt refers show that he is aware of the violent character of this primordial nomos. One example refers to Hercules, who had stolen three oxen from the giant Geryon. According to Schmitt Hercules is the mythic creator of order because the taking

43. This insight does not play a very central role in *Political Theology*. In Schmitt's later works, however, it becomes increasingly obvious. Thus, he clearly sees chaos as the permanent threat behind Hobbes' absolutist state. See Carl Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes: Sinn und Fehlschlag eines politischen Symbols*, edited by Günter Maschke (Köln: Hohenheim Verlag, 1982), p. 34. In *Nomos der Erde* Schmitt emphasizes the creation of a territorial order to contain chaos. See Carl Schmitt, *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum*, 3rd edition (Berlin: Duncker & Humblot, 1988), p. 22. See also Carl Schmitt, *The Concept of the Political*, trans. by George Schwab (New Brunswick, NJ: Rutgers University Press, 1976), p. 34f.; *Verfassungsrechtliche Aufsätze aus den Jahren 1924-1954: Materialien zu einer Verfassungslehre*, 3rd edition (Berlin: Duncker & Humblot, 1985), p. 288. On chaos see also Girard, *Scapegoat*, *op. cit.*, pp. 30f. Bolz also recognizes an affinity between Girard and Schmitt concerning their view of chaos. See Norbert Bolz, *Die Welt als Chaos und Simulation* (Munich: Wilhelm Fink Verlag, 1992), p. 16. A Girardian reading of the connection between decision and order also helps explain Schmitt's seemingly irreconcilable shift from pure decisionism towards concrete-order thinking. After Hitler came to power Schmitt emphasized concrete-order thinking over exclusive decisionism. But that does not mean that he changed his position on the foundational character of the decision. It simply shows that Schmitt was not really interested in the decision as such, but only in its importance in a state of exception. As soon as stability is reestablished, the decisionist element recedes to the background. On Schmitt's concrete-order thinking see Schwab, *Challenge*, *op. cit.*, pp. 115-125; F. R. Cristi, "Hayek and Schmitt on the Rule of Law," in *Canadian Journal of Political Science* 17 (1984), pp. 529-532; Joseph H. Kaiser, "Konkretes Ordnungsdenken," in Quaritsch, ed., *Complexio*, *op. cit.*, pp. 319-331.

44. Cf. Schmitt, *Nomos*, *op. cit.*, pp. 36-51; "Nehmen/Teilen/Weiden: Ein Versuch, die Grundfragen jeder Sozial und Wirtschaftsordnung vom Nomos her richtig zu stellen," in *Verfassungsrechtliche Aufsätze*, *op. cit.*, pp. 489-504; "Nomos-Nahme-Name," in Siegfried Behn, ed., *Der beständige Aufbruch*, Festschrift für Erich Przywara (Nürnberg: Glock und Lutz, 1959), pp. 92-105.

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away (*nomos*) of the oxen transforms violence into law.[45] A second example is the "*Conquista*," the acquisition of land in Latin America, which Schmitt considers the last heroic deed of the European people.[46] Consistent with his argument in *Political Theology*, in his reflections on the original meaning of nomos Schmitt mentions that normativism and positivism presuppose the violent act of the acquisition of land. As soon as a situation of order and peace is created, however, the violent origin of order is forgotten and there seems to be nothing but normativism and positivism.[47] In *Political Theology* he talks about the normal situation in which the element of decision recedes to a minimum and the norm seems to be everything.[48] Schmitt's later work, which is a further elaboration of his thesis in *Political Theology*, suggests that there is also a similarity between Schmitt and Girard concerning the violent dimension of the primordial decision.

A Girardian reading of *Political Theology* emphasizes not only the need for a decision as the origin of every legal order but also makes clear that every legal perception contains a decisionist element: "Every legal thought brings a legal idea, which in its purity can never become reality, into another aggregate condition and adds an element that cannot be derived either from the content of the legal idea or from the content of a general positive legal norm that is to be applied."[49] Every legal perception needs as a supplement a decisionist or, in Girardian terms, a sacrificial element.[50] In addition, there are two other important similarities between Girard's anthropology and Schmitt's *Political Theology*. The first has to do with their view of human nature. Both are critical of Rousseau's faith in the intrinsic goodness of man and emphasize original sin.[51]

45. Schmitt, "Nomos-Nahme-Name," *op. cit.*, p. 105. Cf. Serres, *Rome*, *op. cit.*, p. 11.
46. *Ibid.*, p. 104.
47. *Ibid.*, p. 97.
48. Schmitt, *Theology*, *op. cit.*, p. 12.
49. *Ibid.*, p. 30.
50. Influenced by Girard, Calasso has shown the necessity of a sacrificial supplement to the legal order as a whole: "It is significant that we say *Law and order* — and not merely *law* or *order*. In fact order does not repeat nor does it confirm the meaning of law. Order is what law cannot achieve all by itself. Order is law plus sacrifice, plus the perpetual supplement, plus the perpetual surplus which must be destroyed in order for *order* to exist." Roberto Calasso, *La Rovina di Kasch* (Milan: Adelphi Edizioni, 1983), p. 193. Quoted in Andrew J. McKenna, *Violence and Difference: Girard, Derrida, and Deconstruction* (Urbana and Chicago: University of Illinois Press, 1992), p. 63.
51. Schmitt, *Theology*, *op. cit.*, pp. 56-59; cf. Schmitt, *Diktatur*, *op. cit.*, pp. 9, 109, 112-114, 123, 148; *Concept*, *op. cit.*, pp. 58-68; Girard, *Theater*, *op. cit.*, 321-326. Regarding original sin, however, the similarity between Schmitt and Girard is only superficial. Schmitt's account is deeply rooted in sacrificial theology of predestination which "distinguishes

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Schmitt further notes that Hobbes and Donoso emphasize the problematic character of human nature.[52]

Secondly, both Girard and Schmitt claim that culture in general and the political in particular are rooted in religion. Girard mentions theater, medicine, philosophy, anthropology, capital punishment, sacred kingship, and the juridical system as examples of institutions that can be traced back to the scapegoat mechanism and, therefore, to religion.[53] In a similar vein, Schmitt's famous claim about secularization is that the original nature of the political is "theological": "All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development — in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent God became the omnipotent lawgiver — but also *because of their systematic structure, the recognition of which is necessary* for a sociological consideration of these concepts. The exception in jurisprudence is analogous to the miracle in theology."[54]

The three main elements in Schmitt's *Political Theology*: decisionism, the rejection of an intrinsic goodness of human nature and the religious root of the political, are all part of Girard's anthropology. In spite of these similarities, there is one important difference between the two. Like in Schmitt, Girard's analyses of the origin of culture emphasize the decisionist dimension but, unlike Schmitt, they show that this decision is the ultimately unjustified killing of an innocent or arbitrarily chosen victim. The latin root of decision, "*decidere*," etymologically means to cut the throat of a victim.[55] Girard argues that all culture is founded on murder.

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between the redeemed and the nonredeemed, the chosen and the nonchosen" (*Concept*, p. 64 [translation corrected]). As such, Schmitt sees an analogy between the political distinction between friend and enemy and "the fundamental theological dogma of the evilness of the world and man." Both lead to a "categorization of men, a 'distancing,' and make impossible the undifferentiated optimism of a universal concept of man" (p. 65 [translation corrected]). For his part, Girard emphasizes the importance of original sin without distinguishing human beings from one another and giving up the universal equality of human beings. "The real idea of original sin is that human beings are all equally guilty of mimetic desire and scapegoating." (*Theater*, *op. cit.*, p. 325).

52. Schmitt, *Concept*, *op. cit.*, p. 61.

53. Girard, *Violence*, *op. cit.*, pp. 15-18, 21-24, 274-308. Cf. A. McKenna, *Violence*, *op. cit.*, pp. 83-94.

54. Schmitt, *Theology*, *op. cit.*, p. 36. Cf. *Concept*, *op. cit.*, pp. 64f; *Politische Theologie II: Die Legende von der Erledigung jeder Politischen Theologie* (Berlin: Duncker & Humblot, 1970).

55. The relation between Walter Benjamin's article "Critique of Violence" (published in 1921) and Schmitt's *Political Theology* is similar to the relation between Schmitt and Girard's anthropological theory. As Ellen Kennedy points out, there are striking parallels between Benjamin and Schmitt. Both emphasize that the exception reveals the essence of politics and law. Kennedy, however, is wrong in omitting that Benjamin, like Girard,

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The denunciation of the scapegoat mechanism is ultimately a result of the true spirit of Judaism and Christianity that sided with the victims.[56] Schmitt never takes the side of the victim. He recognizes that there is a violent deed at the beginning of all law, but the victims who fell prey to that primordial violence, such as the victims of the Spanish *Conquista*,[57] are of no concern to him.[58] The same is true of his political theology. While he emphasizes the theological foundation of the political, he supports this kind of theology and does not expose its origin in the

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denounces the violence on which law is ultimately based. Benjamin's critique of lawmaking violence is an antithesis to Schmitt. Alfons Söllner rightly criticized Kennedy on this. See Walter Benjamin, *op. cit.*, pp. 277-300; Ellen Kennedy, "Carl Schmitt and the Frankfurt School," in *Telos 71* (Spring 1987), p. 43; Alfons Söllner, "Beyond Carl Schmitt: Political Theory in the Frankfurt School," in *Telos* 71 (Spring 1987), p. 83; Michael Rumpf, "Radikale Theologie: Benjamins Beziehung zu Carl Schmitt," in Peter Gebhardt et al., *Walter Benjamin — Zeitgenosse der Moderne* (Kronberg: Scriptor, 1976), p. 41. Both Girard and Benjamin point to the violent origin of law, emphasize the similarity between mythic and lawmaking violence, and refer to God as the ultimate force against mythic violence. But whereas Girard talks about the nonviolent God who exposes all human violence, Benjamin sees God's divine and law-destroying violence as the real opposition to myths. Ultimately Benjamin is unable to transcend the world of violence. On similarities between Girard and Benjamin, see Gerhard Lohfink, *Wem gilt die Bergpredigt? Beiträge zu einer christlichen Ethik* (Freiburg: Herder 1988), p. 121.

56. Girard, *Disorder*, *op. cit.*, 86; *Things*, *op. cit.*, p. 238; "To double . . .", *op. cit.*, p. 105; *Scapegoat*, *op. cit.*, p. 114.

57. Schmitt, "Nomos-Nahme-Name," *op. cit.*, p. 105. Schmitt's systematic indifference toward the victim does not mean that he sides with thinkers like Juan Gines Sepúlveda (1490-1573), who justified the *Conquista* by arguing that the native people in America must be compared with animals. Schmitt is closer to Francisco de Vitoria (1483-1546) who treated native people like human beings, yet he justified the *Conquista*. According to Schmitt, Bartolomé de Las Casas' (1447-1566) insistence on a nonviolent type of mission remains a pure ethics of conviction (*Gesinnungsethik*) that overlooks its consequences in foreign policy. See Schmitt, *Nomos*, *op. cit.*, pp. 69-96; *Glossarium*, *op. cit.*, p. 106.

58. In an introduction to Georges Batailles' work Rita Bischof shows that there are parallels between Bataille and Schmitt. Both see a decision at the foundation of the social order. Bischof, however, critizes Schmitt for not seeing that this decision was a violent act. "By refusing to recognize the link between the true heterogeneity of the origin with the impure origin of every order from an act of violence, which follows from his own argument, Schmitt repeats the impure origin in the realm of ideas that is a characteristic transposition of accidental history. Violence is thereby legitimated, whereby it becomes tied to the idea of a Constitution. The gnosis reflects this process with its own irony in the image of the demiurges." See Rita Bischof, "Über den Gesichtspunkt, von dem aus gedacht wird," in Georges Bataille, *Die psychologische Struktur des Faschismus — Die Souveränität*, trans. by R. Bischof, E. Lenk and X. Rajewsky, ed. by E. Lenk (Munich: Matthes Seitz & Verlag, 1978), p. 119. Here Bischof refers to Schmitt's *Political Theology*. She is right only as far as this book is concerned. In *Political Theology* Schmitt did not talk about the violent dimension of the decision. His later work, however, mentioned the violent deed at the beginning of law. Because he still did not side with the victim of this original violence Bischof's critique of Schmitt also applies to the later work. As long as there is no siding with the victim, the recognition of violence is not the same as overcoming it.

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scapegoat mechanism.[59] From a Girardian viewpoint, Schmitt's *Political Theology* is sacrificial in the broad sense, which means that his political theory has its roots in the scapegoat mechanism without being aware of it.[60] His theory sides with the sacrificial system and completely overlooks the violence against the victim.

A Girardian Interpretation of Hobbes

From a Girardian viewpoint, Hobbes' political philosophy is — like Schmitt's political theology — sacrificial.[61] The first parallel can be found in Hobbes' decisionism. According to Schmitt this decisionism is encapsulated in Hobbes' remark "*Autoritas, non veritas facit legem.*" These words appear in the Latin version of *Leviathan*. In the same place in the English version he provides an interesting illustration of his claim that all laws need interpretation and that the sovereign power is the interpreter of the law. To the legislator who, according to Hobbes, is the civil sovereign "there can not be any knot in the Law, insoluble; either by finding out the ends, to undo it by; or else by making what ends he will, (as Alexander did with his sword in the Gordian knot,) by the Legislative power."[62] Alexander's sword illustrates the violent sacrificial origins of decisionism.

The sacrificial dimension in Hobbes' philosophy becomes explicit in his attempt to restore the mythical unity of religion and politics.[63] As in ancient paganism, Hobbes' civil sovereign is the absolute ruler of religion and politics.[64] Yet, theological elements are essential in Hobbes' work. They are ultimately decisive for its sacrificial dimension. According

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59. The same is true of many Schmitt scholars. Thus Flickinger emphasizes that Schmitt was aware of the theological roots of the political. But he thinks that this theology is true Christianity. See Hans Georg Flickinger, "Mythos der Souveränität und Souveränität des Mythos," in Hans-Georg Flickinger, ed., *Die Autonomie des Politischen: Carl Schmitts Kampf um einen unbeschädigten Begriff* (Weinheim: VCH/Acta Humaniora, 1990), pp. 75f.

60. Girard distinguishes between the strict and the broad sense of the sacrificial. See Girard, *Job*, *op. cit.*, p. 59: "We are at the junction between religion which is still sacrificial in the strict sense, and politics that is *sacrificial* in the broad sense. Certain aspects of the religious speech can already be translated into a political speech, and vice versa."

61. For a detailed Girardian interpretation of Hobbes, see Wolfgang Palaver, *Politik und Religion bei Thomas Hobbes: Eine Kritik aus der Sicht der Theorie René Girards*, Innsbrucker theologische Studien 33 (Innsbruck: Tyrolia, 1991).

62. Hobbes, *op. cit.*, chap. 26, p. 322. Cf. Schmitt, *Arten*, *op. cit.*, p. 27. On the Gordian knot, see also Carl Schmitt, "Die geschichtliche Struktur des heutigen Welt-Gegensatzes von Ost und West: Bemerkungen zu Ernst Jüngers Schrift: 'Der Gordische Knoten'," in Armin Mohler, ed., *Freundschaftliche Begegnungen: Festschrift für Ernst Jünger zum 60. Geburtstag* (Frankfurt am Main: Klostermann, 1955), pp. 135-137.

63. Cf. Schmitt, *Leviathan*, *op. cit.*, p. 21.

64. Hobbes, *op. cit.*, chap. 39, pp. 498f.

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to Schmitt, the theology of Hobbes' era caused him — despite his nominalism, his natural-scientific approach and his reduction of the individual to the atom — to remain "personalistic and [to] postulate an ultimate concrete deciding instance, and . . . also [to] heighten his state, the Leviathan, into an immense person and thus point-blank straight into mythology."[65] The belief in a sole, all-powerful God governing the world undergirded Hobbes' personalistic and decisionist position.

There is a perfect analogy between this all-powerful God and Hobbes' sovereign.[66] Both God and the sovereign have absolute power, remain outside the law and therefore cannot act unjustly. Fear of the omnipotent God is similar to the terror by which the sovereign — who is a "Mortall God" — reigns.[67] Clearly, the sacrificial image of God serves as a model for Hobbes' civil sovereign.[68] Power and terror are the most important characteristics of Hobbes' God. Love, which is emphasized in the New Testament's image of God, is practically ignored.

Hobbes' use of the Bible is a further proof of the sacrificial dimensions of his political philosophy. Although very little attention has been paid to the "biblical scholar" Hobbes, the Bible plays an important role in his philosophy, and almost half of *Leviathan* deals with the Bible. Hobbes, however, privileges those texts emphasizing sacrificial myths, and marginalizes or omits those repudiating the scapegoat mechanism.[69]

To demonstrate that the omnipotent God has a natural right to rule over people and punish them, Hobbes refers to God's final speeches in the book of Job (Job 38:1-41:34) where Job's afflictions are explained. His torment is not the result of his sins but of God's irresistible power.[70] According to Girard, this particular God is rooted in the

65. Schmitt, *Theology*, *op. cit.*, p. 47.

66. Palaver, *Politik*, *op. cit.*, pp. 261-268.

67. Hobbes, *op. cit.*, chap. 17, p. 227.

68. Milbank has shown that a heretical or, in his words, "perverse," theology helped to determine Hobbes' new political philosophy. Hobbes' emphasis on God's irresistible power best exemplifies his nominalist theology stressing God's "*potentia absoluta*" — God's infinite power, only knowable to a logical formalism. Hobbes' sovereign's absolute power is nothing but a reflection of God's absolute power. The closeness of Hobbes' concept of sovereignty to this image of God ensures it theologically. A reference to Schmitt's *Political Theology* demonstrates that Milbank sees a close relation between his interpretation of the theological base of Hobbes' political philosophy and Schmitt's secularization thesis. See John Milbank, *Theology and Social Theory: Beyond Secular Reason* (0xford: Basil Blackwell, 1990), pp. 14f., 21, and 25.

69. See Palaver, *Politik*, *op. cit.*, pp. 142-337; Wolfgang Palaver, "Thomas Hobbes' Umgang mit der Bibel: Eine Interpretation aus der Sicht der Theorie von René Girard," in *Zeitschrift für Katholische Theologie*, 114 (1992), pp. 257-273.

70. Hobbes, *op. cit.*, chap. 31, p. 398.

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scapegoat mechanism.[71] Contrary to the Dialogues in the book of Job, Job's role is that of a scapegoat. Those texts, and especially the particular passages (Job 16:19-21; 19:25-27) that talk about a God of victims who sides with the scapegoat play no role in Hobbes' work.

Even Hobbes' most secular concept — the social contract — has sacrificial roots.[72] According to Hobbes, in a state of nature in which there is no civil power, contracts are not reliable. "Covenants, without the Sword, are but Words, and of no strength to secure a man at all."[73] If that is the case, how can the social contract come about? How is the power that guarantees all subsequent contracts and covenants created? Hobbes sees the fear of God as the only means to back up contracts in the state of nature. Sacred oaths are the practical realization of that fear. "Before the time of Civill Society, or in the interruption thereof by Warre, *there is nothing can strengthen a Covenant of Peace agreed* on, against the temptations of Avarice, Ambition, Lust, or other strong desire, but the feare of that Invisible Power, which they every one Worship as God; and Feare as a Revenger of their perfidy. All therefore that can be done between two men not subject to Civill Power, is to put one another to swear by the God he feareth: Which *Swearing*, or OATH, is a *Forme of Speech, added to a Promise; by which he that promiseth, signifieth, that unlesse he performe, he renounceth the mercy of his God, or calleth to him for vengeance on himselfe*. Such was the Heathen Forme, *Let* Jupiter *kill me else, as I kill this Beast*."[74] Here Hobbes indirectly identifies the origin of the social contract in sacred oaths rooted in the scapegoat mechanism.[75]

God's vengeance is central to Hobbes' conception of oath and his sacrificial thinking in general.[76] Only gods rooted in the scapegoat mechanism can be full of wrath. The heathen oath that Hobbes mentions is the one between Rome and Alba Longa that Livy reports in his

71. Girard, *Job*, *op. cit.*, p. 142.
72. Cf. Palaver, *Politik*, *op. cit.*, pp. 64-76.
73. Hobbes, *op. cit.*, chap. 17, p. 223.
74. *Ibid.*, chap. 15., pp. 200f.
75. On the connection between the oath and the scapegoat mechanism, see Girard, *Scapegoat*, *op. cit.*, p. 156. On the origin of the idea of the contract in sacred oaths, see Emile Durkheim, *Professional Ethics and Civic Morals*, trans. by Cornelia Brookfield, with a new preface by Bryan S. Turner, 2nd edition (London and New York: Routledge, 1992), pp. 182 and 186. Cf. also Walter Benjamin, *op. cit.*, p. 288: "Like the outcome, the origin of every contract also points toward violence." If the third edition of *The Concept of the Political* shows more clearly the religious premises of Schmitt's work, the fact that in this edition he emphasized the importance of oaths for political life is further evidence for this thesis. See Schmitt, *Begriff*, 3rd edition, *op. cit.*, p. 22.
76. Cf. Hamerton-Kelly, *Violence*, *op. cit.*, p. 152f.

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history of Rome. Livy used the latin words "*foedus ferire*" to describe the conclusion of the treaty. This word "*ferire*" encapsulates the sacrificial element since it means not only to conclude a treaty but also to kill, to strike, to hit or to stab.[77]

Of course, Hobbes' modern political philosophy differs from genuine mythical thinking. Thus, for him, the required absolute obedience to the sovereign relates only to external actions. The people's inner faith and thoughts remain free.[78] Mythical thinking, on the other hand, allows no inner reservation. Therefore, according to Hobbes, secularization occurs. What is secularized, however, is not true Christianity but its sacrificial version. On a secular and political level, those mechanisms grounded in mythical thinking remain. Therefore he can claim that his interpretation of the Bible, which is a sacrificial one, confirms his political philosophy reached by means of natural reason.

Hobbes' stance on witch-hunt illustrates the sacrificial structure of his philosophy. He did not believe in the existence of devils, demons and consequently also of witches. This was progressive since belief in witches was widespread at the time. In spite of this, he did support the persecution of witches for merely social and political reasons.[79] Thus the basic pattern of the persecution of witches remains. The logic of his position on witch-hunt is sacrificial in the broader sense of the term.[80]

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77. Fustel de Coulanges has emphasized that the word "*foedus*" goes back to the scapegoat mechanism since it originally referred to the victim — a child or a young goat — that was slain when a treaty was concluded. Cf. Numa Denis Fustel de Coulanges, *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome*, first published in French in 1864, trans. by Willard Small in 1873 (New York: Doubleday, 1956), pp. 207f: "When a war did not end by the extermination or subjection of one of the two parties, a treaty of peace might terminate it. But for this a convention was not sufficient: a religious act was necessary. Every treaty was marked by the immolation of a victim. To sign a treaty is a modern expression: the Latins said, strike a kid, *icere haedus*, or *foedus*; the name of the victim most generally employed for this purpose has remained in the common language to designate the entire act."

78. Cf. Hobbes, *op. cit.*, chap. 42., p. 576. Schmitt was aware of those elements in Hobbes that weaken sacrificial thinking. In his later book on Hobbes he explicitly rejected them. According to Schmitt, Hobbes' insistence on the possibility of an inner reservation that enables the subjects to reject in their hearts the public religion is the mortal germ that kills the Leviathan in the long run. See Schmitt, *Leviathan*, *op. cit.*, p. 86.

79. Hobbes, *op. cit.*, chap. 2, p. 92: "For as for Witches, I think not that their witchcraft is any reall powers but yet that they are justly punished, for the false beliefe they have, that they can do such mischiefe, joyned with their purpose to do it if they can: their trade being neerer to a new Religion, than to a Craft or Science."

80. Further evidence for the sacrificial character of Hobbes' political philosophy is his justification of the punishment of innocent people not subjects to the sovereign. If it benefits the state, their punishment is justified. Cf. Hobbes, *op. cit.*, Chap. 28, p. 360: "The Infliction of what evill soever, on an Innocent man, that is not a Subject, if it be

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A Girardian Interpretation of Donoso Cortés

From a Girardian viewpoint, Donoso's work is also sacrificial. As in Hobbes, Schmitt, and Girard, he also argues for a close relation between religion and politics. According to Donoso, "every great political question always involves a great theological question," and religion is "the indestructible foundation of human society."[81]

The most striking evidence of the sacrificial dimension in Donoso's work is his account of "bloody sacrifices" where he comes very close to Girard's anthropology, which also assumes that blood sacrifices are the most universal human institutions.[82] Like Girard, Donoso observes that it was because of the bloody sacrifice of Abel that God preferred him to Cain. It is the logic of the scapegoat mechanism that leads Donoso to claim that Abel's blood sacrifice prevents him from becoming a murderer: "Abel, who offers blood as an expiatory sacrifice, holds its effusion in such horror that he prefers to die rather than shed blood of him who would kill him; while Cain, who refuses to shed blood as a symbol of expiation, does not hesitate to take the life of his brother."[83]

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for the benefit of the Common-wealth, and without violation of any former Covenant, is no breach of the Law of Nature. For all men that are not Subjects, are either Enemies, or else they have ceased from being so, by some precedent covenants. But against Enemies, whom the Common-wealth judgeth capable to do them hurt, it is lawful by the originall Right of Nature to make warre: wherein the Sword Judgeth not, nor doth the Victor make distinction of Nocent, and Innocent, as to the time past: nor has other respect of mercy, than as it conduceth to the good of his own People. And upon this ground it is, that also in Subjects, who deliberatly deny the Authority of the Common-wealth established, the vengeance is law-fully extended, not only to the Fathers, but also to the third and fourth generation not yet in being, and consequently innocent of the fact, for which they are afflicted: because the nature of this offence, consisteth in the renouncing of subjection; which is a relapse into the condition of warre, commonly called Rebellion; and they that so offend, suffer not as Subjects, but as Enemies. For *Rebellion*, is but warre renewed."This position is not very different from the sacrificial practices of primitive communities, which use external victims to insure domestic tranquillity. The essence of Hobbes' state is the terror that enables the Leviathan "to forme the wills of them all, to Peace at home, and mutuall ayd against their enemies abroad." See Hobbes, *op. cit.*, chap. 17, pp. 227f. On the relation between foreign wars and internal peace in ritual cannibalism among primitive communities and in modern nationalist myths, see Girard, *Violence*, *op. cit.*, pp. 278-280.

81. Donoso Cortés, *Essay*, *op. cit.*, pp. 17-18.

82. *Ibid.*, pp. 278-292. Not by chance Günter Maschke refers to Girard in a footnote where he comments on Donoso's concept of sacrifice in the German edition of *Essay*. See Juan Donoso Cortés, *Essay über den Katholizismus, den Liberalismus und den Sozialismus und andere Schriften aus den Jahren 1851 bis 1853*, ed., trans. and commented on by Günter Maschke (Weinheim: VCH/Acta humaniora, 1989), p. 275. Cf. Donoso, *Essay*, *op. cit.*, p. 282. 83. *Ibid.*, p. 283. Unaware of Donoso's interpretation of the Cain and Abel story, Girard came to the same conclusion. See Girard, *Violence*, *op. cit.*, p. 4: "The Bible offers us no background on the two brothers except the bare fact that Cain is a tiller of the

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The logic of the scapegoat mechanism is the killing of a single victim in order to prevent general killing. A little amount of blood has to be shed to prevent an immense bloodbath. Nothing in Donoso summarizes his understanding of the expiatory effect of blood sacrifices better. Accordingly, it is necessary to believe that "the effusion of blood is necessary, that there is a manner of shedding blood which is purificatory, and another mode which is condemnatory."[84]

Donoso's support of capital punishment is the result of his insight into the function of sacrifice.[85] Again, he emphasizes the universality of this institution. He favors the death penalty not only for ordinary capital crimes, but for political ones as well, since he thinks that the abolishment of capital punishment for political crimes has disastrous consequences. First this abolishment would remove the death penalty for all crimes and ultimately all human penalties. According to Donoso, those who oppose the death penalty are driven by the idea that the earth can be converted into a paradise in which blood never flows. Donoso warns against such attempts: "The evil is not the illusion, but in the very day and hour that this fallacy is everywhere accepted; blood will then gush forth from the rocks, and the earth will become a hell."[86] According to Girard, the death penalty has sacrificial roots. Following Louis Gernet, Girard points out that the whole penal system, and capital punishment in particular, are rooted in the scapegoat mechanism.[87]

As with Hobbes, Donoso's political theology is based on a sacrificial reading of the Bible. He makes the mistake of historical Christianity and misreads the text favoring the sacrificial elements to the revelatory ones. In Donoso's *Essay*, the essential difference between the Oedipus myth and the passion narratives of the gospels disappears. He is blind to the

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soil who gives his fruits of his labor to God, whereas Abel is a shepherd who regularly sacrifices the first-born of his herds. One of the brothers kills the other, and the murderer is the one who does not have the violence-outlet of animal sacrifice at his disposal. This difference between sacrificial and nonsacrificial cults determines, in effect, God's judgement in favor of Abel. To say that God accedes to Abel's sacrificial offerings but rejects the offerings of Cain is simply another way of saying — from the viewpoint of the divinity — that Cain is a murderer, whereas his brother is not."

84. Donoso, *Essay*, *op. cit.*, p. 284.

85. *Ibid.*, pp. 288-292.

86. *Ibid.*, p. 292. Cf. Schmitt, *Donoso*, *op. cit.*, pp. 110f.

87. Girard, *Violence*, *op. cit.*, p. 298. Cf. Louis Gernet, *Anthropologie de la Grèce antique* (Paris: Maspero, 1968), pp. 326f. Girard's insight into the sacrificial roots of death penalty comes close to Walter Benjamin's critique of capital punishment. See Walter Benjamin, *op. cit.*, pp. 285f. In the U.S. the overwhelming majority of those favoring capital punishment know that its deterring effect is negligible. Still, they insist on revenge. This shows the extent to which the death penalty has sacrificial roots.

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difference between a myth justifying the expulsion of Oedipus and a text exposing the unjustified killing of Jesus. According to Donoso, both Oedipus and Jesus are victims that deliver all others from divine wrath.[88]

Another example of his misreading of biblical texts is his use of Hebrews 9:22 in connection with capital punishment — "without shedding of blood there is no remission."[89] According to Girard, this verse easily succumbs to a sacrificial misreading.[90] In his discussion of the death penalty, Donoso does not even deal with passages such as the Sermon on the Mount with its radicalization of the prohibition to kill (Matthew 5:21). These are precisely those passages supporting Girard's non-sacrificial reading of the Bible, since they denounce the scapegoat mechanism and all culture rooted in it. Like Hobbes, Donoso's work is sacrificial, and this is the common ground between them. Both represent sacrificial thinking, and Schmitt sees this link. From a Girardian viewpoint the contradictions between Hobbes and Donoso are only superficial and their work is ultimately rather similar.

Schmitt's Insight into the Similarity between Hobbes and Donoso

In his recently published private notes Schmitt provides an interesting answer to the question about the relation between Hobbes and Donoso supporting a Girardian reading. On May 23, 1949 he wrote the following: "Thomas Hobbes' most important sentence remains: Jesus is the Christ. The power of such a sentence works even if it is pushed to the margins of the conceptual system even if it is apparently pushed outside the conceptual body. This deportation is analogous to the domestication of Christ undertaken by the Grand Inquisitor of Dostoevski. Hobbes articulated and provided scientific reason for what the Grand Inquisitor did: to make the effect of Christ harmless in the social and political sphere; to de-anarchize Christianity but to leave to it at the same time some kind of legitimating effect in the background and in any case not to do without it. A clever tactician gives up nothing, at least as long as it is not totally useless. Thus Christianity was not yet spent. Therefore we may ask ourselves: who is closer to Dostoevski's Grand Inquisitor: the Roman Church or Thomas Hobbes' sovereign? Reformation and Counter-Reformation point in the same direction.

88. Donoso, *Essay*, *op. cit.*, p. 281. On the Oedipus myth, see Girard, *Violence*, *op. cit.*, pp. 68-88. On the difference between the Oedipus myth and the gospels, see Girard, *Scapegoat*, *op. cit.*, p. 103.

89. Donoso, *Essay*, *op. cit.*, p. 288.

90. Girard, *Things*, *op. cit.*, p. 228.

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Tell me your enemy and I tell you who you are. Hobbes and the Roman Church: the enemy is the gestalt of our self-questioning."[91]

Although Schmitt focuses on Hobbes and Dostoevski's Grand Inquisitor, Donoso can be substituted for the Grand Inquisitor. According to Schmitt, Donoso and the Grand Inquisitor are exchangeable because Donoso "retained the self-confident grandeur of a spiritual descendant of the Grand Inquisitors."[92] Similarly, both Hobbes and the Grand Inquisitor/Donoso try to keep Christ away from politics and Christianity's anarchic tendencies in check. This is exactly what a sacrificial misunderstanding of Christianity is all about. Because Christ and genuine Christianity expose the scapegoat mechanism and all culture rooted in it, in the long run it actually destroys all sacrificial culture. Cultural and social distinctions shown to be based on a lie — on murder — cannot stand any longer. Not only are Hobbes and Donoso representatives of the sacrificial effort to prevent the breakdown of culture, but Schmitt himself is a perfect example of it. In his *Concept of the Political* he rejects any connection between Christ's commandment to love your enemies in the Sermon on the Mount and the realm of the political where the distinction between friend and enemy rules.[93] On the basis of the words used in the New Testament (*echthros* instead of *polemios*) Schmitt claims that the Bible only calls for the love of the private enemy.

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91. Schmitt, *Glossarium*, *op. cit.*, 243. On Schmitt's account of Hobbes and the reformation, see Carl Schmitt, "Die vollendete Reformation: Zu neuen Leviathan-Interpretationen," in *Der Staat*, No. 4 (1965), pp. 51-69.

92. Schmitt, *Theology*, *op. cit.*, p. 57. In another passage and some of his other books Schmitt mentions that Proudhon charged Donoso with being a fanatical Grand Inquisitor. See *ibid.*, p. 63; *The Crisis of Parliamentary Democracy*, trans. by Ellen Kennedy (Cambridge: MIT Press, 1988), p. 70; *Donoso*, *op. cit.*, p. 112. Schmitt not only saw in a positive light Donoso as the heir to the Grand Inquisitor, but he openly sympathized with the Grand Inquisitor. In one of his early writings about the Catholic Church Schmitt sided with the Grand Inquisitor against Dostoevski. See Carl Schmitt, *Römischer Katholizismus und politische Form*, reprint of the 2nd edition (Stuttgart: Klett-Cotta, 1984), p. 54; English translation: *The Idea of Representation: A Discussion*, trans. by E. M. Codd, edited and introduced by S. Draghici (Washington: Plutarch Press, 1988), pp. 56f: "Like every world-embracing form of imperialism that has attained its goal, the Church will bring peace to the world, but the anarchistic fear sees therein a triumph of the Devil. Dostoyevsky's Grand Inquisitor confesses that he succumbed to Satan's wiles fully conscious of what he was doing, because he knew that man by nature is base and vile, a craven rebel who needs a master, and because only a priest of the Church of Rome has the courage to take upon himself the penalty of damnation attached to such power. In this passage, Dostoyevsky forcibly projects his own potential atheism into the Church of Rome. To his anarchical (which invariably means atheistic) instinct, every form of power was something evil and inhuman." On the Grand Inquisitor see also René Girard, *Critique dans un Souterrain* (Lausanne: Editions l'Age d'Homme, 1976), pp. 97-103.

93. Schmitt, *Concept*, *op. cit.*, pp. 28f.

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Public enemies are not affected. Thus Schmitt falls in line with Hobbes, Donoso and the Grand Inquisitor. He keeps Christ away from politics. The scripture does not support such a misreading and even Schmitt himself challenged indirectly this claim in his later writings.[94]

Schmitt's 1949 aphorism not only supports Girard's claim that the sacrificial dimension is the common ground between Hobbes, Donoso and Schmitt, but in the concluding part Schmitt himself provides a Girardian explanation for the enmity between Hobbes and Donoso. They are enemies because they are alike. The brotherhood between Hobbes and Donoso makes them enemies. In Girardian terms, they are enemy brothers.[95] The fewer differences between two persons the more likely they will be drawn into mimetic rivalry. In mythology, the Bible, literature, and in history, brothers are not friends. Rather, they tend to end up in the most fierce kind of enmity.[96]

Schmitt first discussed the mimetic nature of enmity in his apologetic postwar journal *Ex captivitate Salus*. Much more clearly than in *The Concept of the Political*[97] he recognizes the enemy as a brother rather than simply as the other or a stranger. "Who is my enemy? . . . Theologians tend to define the enemy as someone who has to be annihilated. But I am a jurist not a theologian. Whom can I recognize as my enemy at all? Apparently only the one who can question me. By recognizing him as an enemy I accept that he can question me. And who can really question me? Only I myself. Or my brother. That's it. The other is my brother. The other turns out to be my brother and the brother turns out to be my enemy. Adam and Eve had two sons, Cain and Abel. That is the beginning of humanity. That is what the father of all things looks like. That is

94. For a critique of Schmitt's interpretation of the love for enemies, see Wolfgang Huber and Hans-Richard Reuter, *Friedensethik* (Stuttgart: Kohlhammer, 1990), pp. 220f; Heinz Laufer, *Das Kriterium politischen Handelns: Eine Studie zur Freund-Feind-Doktrin von Carl Schmitt auf der Grundlage der Aristotelischen Theorie der Politik* (Munich: Institut für politische Wissenschaften, 1961), pp. 143-149.

95. Schmitt actually talks about the enmity and similarity between Hobbes and the Catholic Church. A Girardian reading of Hobbes provides further evidence for this thesis. Despite Hobbes' enmity for Bellarmin, his interpretation of the Bible is structurally very similar to Bellarmin's. See Palaver, *Politik*, *op. cit.*, pp. 152, 171, and 320. There are also remarkable similarities between Hobbes and those French Catholic ultramontanists like de Maistre who influenced Donoso. See Hermann Josef Pottmeyer, *Unfehlbarkeit und Souveränität: Die päpstliche Unfehlbarkeit im System der ultramontanen Ekklesiologie des 19. Jahrhunderts* (Mainz: Matthias Grünewald, 1975), p. 399.

96. Girard, *Violence*, *op. cit.*, pp. 59-65; *Theater*, *op. cit.*, pp. 274-276. Cf. James G. Williams, *The Bible, Violence, and the Sacred: Liberation from the Myth of Sanctioned Violence*, with a foreword by René Girard (San Francisco: Harper & Row, 1991), pp. 33-70.

97. Schmitt, *Concept*, *op. cit.*, p. 27.

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the dialectical tension that keeps world history moving and world history has not yet come to its end. . . . Remember the great sentences of the philosopher: The relation of the other to oneself is true eternity. The negation of the negation, says the philosopher, is not a neutralization, but true eternity depends on it. Of course, true eternity is the basic concept of his philosophy. *The enemy is the gestalt of our self-questioning*."[98]

Along with Girard, Schmitt maintains that enmity originates between those who are similar — like brothers.[99] If enmity does originate in the most personal relations, ultimately Schmitt's separation between private and public enemy does not hold.[100] Overcoming enmity must take place both on the private and on the political level. Thus Schmitt's insight into the origins of enmity leads indirectly to the solution provided in the Sermon on the Mount. Enmity has to be overcome on all levels of human existence. Schmitt never came up with such a solution. His sacrificial understanding of Christianity prevented him from reaching this conclusion.

Yet, the biblical text is clear and powerful enough to challenge even the most consistent sacrificial readings. In one of his most remarkable notes written on August 20, 1948 — nearly a year before the above mentioned aphorism — Schmitt hesitates in his support of the Grand Inquisitor. Against a positivistic reading of the Bible, Schmitt points out that the perfect parallel between Moses' escape from the Egyptian child murder and Jesus' escape from the massacre of the innocents is a

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98. Schmitt, *Ex Captivitate*, *op.* cit., pp. 89f. The last sentence of this passage, which is also the last sentence in Schmitt's 1949 aphorism, is a quote from Theodor Däubler's poem "Sang an Palermo." See Theodor Däubler, *Hymne an Italien* (Munich: G. Müller, 1916), p. 58: "The enemy is the gestalt of our self-questioning. /And he will hound us, we him to the same end." Cf. also Carl Schmitt, *Theorie des Partisanen: Zwischenbemerkung zum Begriff des Politischen* (Berlin: Duncker & Humblot, 1963), pp. 87f; "Clausewitz als politischer Denker: Bemerkungen und Hinweise," in *Der Staat*, No. 6 (1967), pp. 494f.

99. The philosopher Schmitt has in mind is Hegel. Not surprisingly, both Kojève's struggle for recognition and Lacan's concept of the imaginary can be used to understand Schmitt's anthropology. For an interesting reading of Schmitt in terms of Kojève and Lacan see Friedrich Balke, "Zur politischen Anthropologie Carl Schmitts," in H.-G. Flickinger, *op. cit.*, pp. 49-62. A Girardian reading of Schmitt that emphasizes mimesis as the source of conflict does not directly contradict insights gained with the help of Kojève or Lacan. It does provide, however, a more elementary, empirical and a less speculative explanation of the roots of rivalry encompassing Hegelian concepts. For the relation between Hegel (Kojève) and Girard, see Girard, "To Double...," *op. cit.*, pp. 89, 201 and 203; Schwager, *op. cit.*, pp. 35-40; Hamerton-Kelly, *Violence*, *op. cit.*, pp. 199-207. For the convergence between Lacan's imaginary and Girard's mimesis, see Mikkel Borch-Jacobsen, *The Freudian Subject*, trans. by Catherine Porter, with a foreword by François Roustang (Stanford: Stanford University Press, 1988), p. 248.

100. Cf. Uwe Justus Wenzel, "Die Dissoziation und ihr Grund: Überlegungen zum

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sign of truth not of forgery. But when he turns to the parallel between the Gerasenes demanding Jesus' departure (Matthew 8:34; Mark 5:17) and the Grand Inquisitor's plea to Jesus to go away and never come back, Schmitt is uncertain: "Is this sameness a sign of truth or of forgery?"[101] In August 1948 Schmitt does not answer this question. The truth of this parallel could have opened his eyes to his sacrificial reading of Christianity. But it did not. As in his early days when he wrote *Political Theology* and his book on the Catholic church, *Roman Catholicism and Political Form*, he saw no problem with the Grand Inquisitor in his 1949 aphorism. According to Jacob Taubes' account of one of his last conversations with Schmitt in 1980, he maintained this position more or less until his death.[102]

Thus, along with the Gerasenes, Hobbes, Donoso and the Grand Inquisitor Schmitt's thinking remains essentially sacrificial. In Schmitt's own words, this means that Christ has to be kept away from politics as far as possible.[103] In this sense, Schmitt's work exemplifies a type of "Christianity without Christ," or a sacrificial form of Catholicism.[104]

Begriff des Politischen," in H.-G. Flickinger, *op. cit.*, p. 31; Klaus-M. Kodalle, *Politik als Macht und Mythos: Carl Schmitts "Politische Theologie"* (Stuttgart: Kohlhammer 1973), p. 32.

101. Schmitt, *Glossarium*, *op. cit.*, p. 192.

102. Jacob Taubes, *An Carl Schmitt: Gegenstrebige Fügung* (Berlin: Merve, 1987), p. 15.

103. For an interpretation of the Gerasenes, see Girard, *Scapegoat, op. cit.*, pp. 165-183.

104. Armin Mohler's account of Schmitt's relation to the "Conservative Revolution" is probably wrong, but his description of Schmitt's theology as a "Christianity without Christ" is confirmed by Girard. See Mohler, *Schmitt, op. cit.*, p. 146. Years ago, Frithard Scholz remarked that Schmitt's theology of incarnation is not christological and that Schmitt's theology in general is not Christian. See Alfred Schindler and Frithard Scholz, "Die Theologie Carl Schmitts," in Jacob Taubes, ed., *Religionstheorie und Politische Theologie*, Vol. I, *Der Fürst dieser Welt: Carl Schmitt und die Folgen*, (Munich, Paderborn, Vienna and Zürich: Wilhelm Fink Verlag/Verlag Ferdinand Schöningh, 1983), pp. 171f. Those who rejected Mohler's thesis at an international seminar on Schmitt (Günter Maschke, Klaus Kröger, Ernst-Wolfgang Böckenförde, Heinrich Meier) by insisting that Schmitt was a true Catholic did not see the essential difference between genuine Christianity and its sacrificial distortion. See Quaritsch, ed., *Complexio*, *op. cit.*, 153-157.

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Anthropological Theology/Theological Anthropology: Reply to Palaver

G. L. Ulmen

Anthropology, the "science of man," was originally opposed to theology. Catholic theologians responded by creating their own "Christian" anthropology. Even a Protestant theologian like Karl Barth wrote that "theology as a science" is a *human* endeavor, i.e., human "discourse about God" — a "special science" because its search for truth distinguishes between the sacred and the profane.[1] Thus the lines between science and theology have long been blurred. Notwithstanding all this, neither Wolfgang Palaver's anthropological theology nor René Girard's theological anthropology have anything to do with Carl Schmitt's political theology. Schmitt was first and foremost a jurist concerned with political questions. The moment his thinking is arbitrarily abstracted from its *juridical* context it becomes open to misinterpretations. This is precisely what happens in Palaver's "Girardian reading" of Schmitt's *Political Theology*,[2] where he argues that Schmitt actually means the opposite of what he says, which necessitates such a "Girardian reading."[3]

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1. Cf. Karl Barth, *Die Lehre vom Wort Gottes: Prologomena zur Kirchlichen Dogmatik*, Eighth Edition (Zürick: EVZ-Verlag, 1964), pp. 2ff.

2. Wolfgang Palaver, "A Girardian Reading of Schmitt's *Political Theology*," in this issue of *Telos*.

3. The ploy of claiming that Schmitt did not understand himself and actually means the opposite of what he said has been tried before, particularly with respect to his critique of political romanticism. Karl Löwith was perhaps the first and at least the most prominent to claim that Schmitt was a political romantic. See Löwith, "Der okkasionelle Dezisionismus von C. Schmitt" (1927) in Löwith, *Gesammelte Abhandlungen: Zur Kritik der geschichtlichen Existenz* (Stuttgart: Kohlhammer Verlag, 1960), pp. 93-126. Cf. Carl Schmitt, *Political Romanticism*, trans. by Guy Oakes (Cambridge MA and London: MIT Press, 1986).

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The Sacred and the Profane

One of Girard's main claims has to do with a "mimetic crisis," according to which imitation is the driving force of rivalry, often leading to violence. According to Palaver, Girard articulates this crisis in terms of the "scapegoat mechanism." In doing so, however, he conflates the original biblical accounts of sacrifice and scapegoat into a dubious theory of the origin of culture. In the biblical account there is a pure sacrificial goat and a scapegoat. While both are symbols of atonement, the sacrificial goat is killed and the scapegoat is sent into the wilderness.[4] Girard turns both the sacrificial goat and the scapegoat into "victims" to be either expelled or killed. But the emphasis is on the killing, which is construed as a collective act against an individual seen as the embodiment of both absolute good and absolute evil. This leads him to the anticlimactic conclusion that "the definitive renunciation of violence . . . will become for us the condition *sine qua non* for the survival of humanity itself."

According to Palaver, the two world wars and the enormous amount of bloodshed during the first half of the 20th century denote a "mimetic crisis." From this he infers that, in order "to make sense of Schmitt's writings, they must be read within this context. He did not appreciate the nonviolent message of the Sermon on the Mount as a possible solution and was therefore forced to seek a return to some kind of sacrificial system." True, unlike Girard and Palaver, Schmitt did not consider the Sermon on the Mount a solution to anything, let alone a "mimetic crisis." As a jurist, he insisted that "*auctoritas, non veritas facit legem*" (authority, not truth makes laws). The religious civil wars tearing Europe apart in the Middle Ages were overcome only after the secular state became the authority. Not only was this turning point marked by the clear formulation of the centralized political unity of the sovereign state (*cujus regio ejus religio*) but also by what Schmitt characterized as the slogan of the epoch: *Silete theologi in munere alieno!* (Be silent theologians in matters which do not concern you!). In the era of the state, jurists replaced theologians.

Seemingly uninterested in the tradition of political theory to which Schmitt belongs, Palaver compares Schmitt's concept of decisionism with Girard's. Although he says that a "mimetic crisis" is "undecidable," he alleges that a decision is needed to solve the problem. Be that as it may, "Girard's decision is an unconscious, violent, and collective act: it is the killing of the victim by the lynch mob" For Schmitt, this is no decision at all, as Palaver acknowledges. Decisions in Schmitt's sense can only be made consciously, subjectively and individually by an authoritative

4. Leviticus, 16: 8-34, 17:1-16.

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agent. *Political Theology* begins with the assertion: "Sovereign is he who decides on the state of exception." It is not concerned with the origin of religion or a theory of culture but with the concept of sovereignty. Yet Palaver concludes that "on closer examination, Girard's anthropology and Schmitt's decisionism turn out to be very close."

If the "scapegoat mechanism" generates religion and culture, this presupposes that the community is originally constituted by the other. Such is not the case with Schmitt. What does not exist yet cannot decide anything. Schmitt emphasizes that even *conscious* political existence presupposes a political existence prior to that consciousness: "Political being [*Sein*] is the precondition of constitutive power. What does not politically exist cannot consciously decide. With this fundamental procedure, in which a people act with political consciousness, political existence was presupposed and is the act whereby to distinguish the people who create a constitution from the constitution of the state."[5] Schmitt grounds political unity in political existence.[6] Since war endangers political unity "it belongs to the political existence of a state that it has the possibility to decide in and of itself concerning the justification or defense of its own existence."[7] Here Schmitt's "constitutional theory" relates to his "concept of the political" because war follows from enmity and is "the existential negation of the enemy." Neither war nor revolution "is something social or something ideal."[8] It is political being which gives existential meaning to the friend-enemy antithesis. In the final analysis, sovereignty is an existential question because it concerns the resolution of an existential conflict. Not only does every politically-existing people decide on the question of its own political existence and any possible danger to it; it decides also on whether an existential question actually exists — a question

5. Carl Schmitt, *Verfassungslehre*, Fifth Edition (Berlin: Duncker & Humblot, 1970), p. 50. Cf. p. 23, where Schmitt writes: "Because every being is a particularly-constituted being, every concrete political existence has some sort of constitution. But not every politically-existing force decides in a conscious act concerning the form of this political existence and succeeds in consciously determining the concrete type [of its political existence] as did the American states with their Declaration of Independence and the French nation in 1789."

6. "Every existing political unity has its value and 'existential justification' not in the rightness or usefulness of norms but in its existence. Juridically considered, what exists as a political force has value because it exists. From this stems its 'right to self-preservation,' the presupposition of all further considerations; it seeks above all to maintain its existence '*in suo esse preseverare*' (Spinoza); it protects 'its *existence*, its *integrity*, its *security*, and its *constitution*' — all existential values." *Ibid.*, p. 22.

7. *Ibid.*, p. 365.

8. Carl Schmitt, *The Concept of the Political*, trans. by George Schwab, with Comments on Schmitt's Essay by Leo Strauss (New Brunswick, NJ: Rutgers University Press, 1976), p. 33.

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which is *political* by its very nature. Since for a politically-existing people there is always the possibility of an existential conflict, "the question of sovereignty, i.e. the ultimate existential decision, always remains open."[9]

According to Palaver, "A Girardian reading of the connection between decision and order also helps explain Schmitt's seemingly irreconcilable shift from pure decisionism towards concrete-order thinking." But this shift seems "irreconcilable" only because Palaver ignores the juridical context of Schmitt's thinking and Maurice Hauriou's influence.[10] Palaver further mystifies the relation between Girard and Schmitt by confusing the concepts of nomos and decisionism. Schmitt's concept of nomos posits three major phases in the development of a legal order — appropriation, distribution and production.[11] None of these have anything to do with a decision in an exceptional situation or with bringing order out of chaos. Palaver simply conflates these concepts. Having recast Schmitt within this "Girardian reading," he then accuses him of not grounding the origin of political theology in the "scapegoat mechanism." Whatever sins Schmitt may have committed, it is irresponsible to claim that Schmitt's "theory sides with the sacrificial system and completely overlooks the violence of the victims." Schmitt was not concerned with murderers and victims but with friends and enemies.

Strange Bedfellows

One may agree with Palaver that: "One of the most intriguing things in Schmitt's *Political Theology* is the parallels he draws between Thomas Hobbes (1588-1679) and Juan Donoso Cortés (1809-1853)." What he concludes from this is another matter,[12] i.e., that "the development of

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9. Schmitt, *Verfassungslehre*, *op. cit.*, p. 372.

10. "I would like to expand upon Hobbes' remark concerning the two types of juridical thinking [normativism and decisionism] at the conclusion of chapter 2 [*Political Theology*, *op. cit.*, p. 33] because this question concerns my position and profession as a juridical scholar. Today I would no longer distinguish two but rather three types of juridical thinking, namely the normative, the decisionist and the institutional. I have come to this conclusion from my theory of 'institutional guarantees' in German jurisprudence and through my occupation with the profound and significant institutional theory of Maurice Hauriou." Cf. Schmitt's forward to the Second Edition (dated November 1933) of *Political Theology*, *op. cit.*, pp. 2ff. (trans. altered). Schmitt's concern with institutional thinking began some years before 1933.

11. Cf. Carl Schmitt, "Nehmen/Teilen/Weiden: Ein Versuch, die Grundfragen jeder Sozial- und Wirtschaftsordnung vom Nomos her richtig zu stellen" (1953), in Schmitt, *Verfassungsrechtliche Aufsätze aus den Jahren 1924-1954: Materialien zu einer Verfassungslehre*, Second Edition (Berlin: Duncker & Humblot, 1974).

12. Palaver criticizes George Schwab for "assigning Donoso and Hobbes to different periods in Schmitt's theoretical development." But all Schwab claimed was: "The more

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Schmitt's *The Concept of the Political* from 1927 to 1933 is away from Hobbes and increasingly towards Donoso." The implication here is that Schmitt moved closer to Donoso's theological positions. But Schmitt's articles on Donoso are not about Catholic dogma. In a 1950 introduction, Schmitt makes perfectly clear that he does not consider Donoso a prophet or a mystic but a "constitutional jurist and politician."[13] In another work published in 1950, *Ex Captivitate Salus*, Schmitt links Donoso not with Hobbes but with Tocqueville, both of whom he considered great observers of the European situation. Moreover, not only did Schmitt write a major work on Hobbes in 1938 and several articles on him after the war, but in his 1947-1951 notes there are only 16 references to Donoso and 44 to Hobbes. Even so, Schmitt did not feel the need to decide between Donoso and Hobbes. Each played a different role. From a juridical viewpoint, however, Hobbes clearly remained more significant.[14] Underrating Hobbes, it is not surprising that Palaver fails to mention "the relation between protection and obedience," which is the key to understanding Schmitt: "A political theory which does not systematically become aware of this sentence remains an inadequate fragment. Hobbes designates this . . . as the true purpose of his *Leviathan*."[15]

Palaver simply ignores whatever does not fit his thesis. But there is a

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Schmitt absorbed himself *in actual constitutional questions* in the 1920s, the more the theological counterrevolutionaries receded from his thoughts." See George Schwab, *The Challenge of the Exception: An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936*, Second Edition (New York, Westport, CN and London: Greenwood Press, 1989), p. 25. Emphasis added. By leaving out the constitutional dimension, Palaver distorts the claim.

13. Carl Schmitt, *Donoso Cortés in gesamteuropäischer Interpretation: Vier Aufsätze* (Cologne: Greven Verlag, 1950), p. 19. Palaver writes that Schmitt would not have dared publish two articles on Donoso during the Nazi period had he really abandoned Donoso's theological-political positions and that the very fact of Schmitt's 1950 book on Donoso is also indicative of this. But Schmitt's four essays were written between 1922 and 1944 under "very different circumstances," as he indicates in the introduction.

14. Some years before his death, Schmitt wrote me that: "I am no Hobbes, but, like Hobbes, I am 'a sole retriever of an ancient prudence'." He was referring to his characterization of Hobbes in his 1938 book, where he lauded his prototype as "the real teacher of a great political experience; alone, like every pioneer; misunderstood, like one whose political ideas are unrealized among his own people; unrewarded, like one who opens a door which another can go through; and yet, in the undying community of great men who know their times, 'a sole retriever of an ancient prudence'. Over the centuries we call to him: *Non jam frustra doces*, Thomas Hobbes!" See Carl Schmitt, *Der Leviathan in der Staatslehre des Thomas Hobbes: Sinn und Fehlschlag eines politischen Symbols* (Hamburg: Hanseatische Verlagsanstalt, 1938), p. 132. Moreover, in Schmitt's 1947-1951 notes (*Glossarium*) it is not Donoso Cortés who is stressed as close to Hobbes and Bodin in Schmitt's galaxy of what he calls his "teachers," but Maurice Hauriou, whom Palaver never mentions.

15. Carl Schmitt, *The Concept of the Political*, trans. by George Schwab (New Brunswick, NJ: Rutgers University Press, 1976), p. 5.

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deeper problem with his approach, particularly with respect to Donoso. Consider the passage in Schmitt's 1947-51 notes to which Palaver refers: "Discovered the statement by Donoso Cortés (in an 1851 letter to the queen mother Maria Christina): Today only the saints can save the nations; that is Kierkegaard's statement about martyrs. I await the deluge and laugh at fools. Distance is necessary for perspective. With respect to law, I believe that human law does not exist and that there is no other but divine law. It is terribly sad that brave men like Westemeyer and Möllenbrock are so blindly critical of the work and great creations [*Kreaturierungen*] of Catholic christians; they did not take such liberties with Kierkegaard. Why do they do so with Catholic authors? The old power still emanates from Donoso unchanged; he is one of my guardian angels. His enemies, says God, are my enemies."[16] Not only there is no link with Hobbes here, but in the following passages it is clear that Schmitt is not endorsing Donoso's theological positions.[17] He is only claiming that Catholic thinkers should be taken seriously and not dismissed simply because they are Catholic. As in the statement concerning "saints" and nations, Schmitt's "guardian angel" is hardly meant in a religious sense. Furthermore, his reference to "divine law" does not mean either Catholic theology or God's law but an authoritative instance. In *Roman Catholicism and Political Form* he writes: "To the political belongs

16. Carl Schmitt, *Glossarium: Aufzeichnungen der Jahre 1947-1951*, Eberhard Freiherr von Medem, ed. (Berlin: Duncker & Humblot, 1991), pp. 20f. The quotes from Donoso Cortés are in French.

17. Even in 1914, when Schmitt argued that right precedes the state, he did not accept Catholic truth as decisive. As a conclusion to his remarks on the state and law Schmitt wrote: "As soon as there is an effort to realize ideas, attain visibility and secularization, there is also — along with the need for a concrete decision . . . — an effort towards an infallible instance provided by this formulation and determined in the same way. Here also the Catholic Church and its dogma provide a typical example. Since the idea of a visible Church, constitutionally established by a legal order and hence a *jus divinum* that is no ethic but a true law, prevailed, such concrete formulations serve doubtful cases." See Carl Schmitt, *Der Wert des Staates und die Bedeutung des Einzelnen* (Tübingen: J.C.B. Mohr [Paul Siebeck] 1914), p. 81. Schmitt soon abandoned this position. See his "Diktatur und Belagerungszustand: Eine staatsrechtliche Studie," in *Zeitschrift für die gesamte Strafrechtstwissenschaft*, Vol. 38 (1917), pp. 138-161. His book on dictatorship has nothing to do with Donoso's belief in the dictatorship of Catholic truth. See Carl Schmitt, *Die Diktatur: Von den Anfängen des modernen Souveränitätsgedanken bis zum proletarischen Klassenkampf* (1921), Fourth Edition (Berlin: Duncker & Humblot, 1978). Schmitt's emphasis is on the legal interpretation of the Weimar Constitution. Palaver claims that Schmitt's notion of "ordinary" order is characterized by the sovereign's "unlimited authority." The opposite is the case. The kind of dictatorship foreseen by Schmitt is consistent with Art. 48 of the Weimar Constitution; *commissarial* as opposed to *sovereign* dictatorship. The distinction is essential to his whole argument concerning the "state of exception," whereby such a dictatorship is embraced by the constitution in its own defense.

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the idea because there is no politics without authority and no authority without an ethos of belief."[18]

While in the 17th and 18th centuries the transcendence of the sovereign *vis-à-vis* the state was accepted as much as the transcendence of God *vis-à-vis* the world, in the 19th century everything came to be dominated by immanence. Hegel projected God into the world and saw law and the state as emanating from the things themselves. No wonder Donoso, who emphasized the metaphysical kernel of all politics, was horrified by Hegelianism.[19] He specifically rejected neutrality by denying that there is anything to be decided. Schmitt did not consider Donoso's definition of the bourgeoisie as "a discussing class" the last word on European liberalism, nor did he accept the dichotomy between spiritualism and materialism. He did, however, appreciate what Donoso had in mind, i.e., that "the moral vanishes with the theological, the political ideal with the moral, and every moral and political decision is paralyzed in a paradisiacal worldliness of immanent natural life and unambiguous *em'body'ment*."[20] The traditional concept of sovereignty was gone, along with agreement on the foundation of values and their realization in law and the state. This is the situation Schmitt addresses in *Political Theology*.

In *Roman Catholicism and Political Form*,[21] written in the same period as *Political Theology* in 1923, Schmitt sought a *modus vivendi* between the Vatican system and modern Catholic thinking. This was consistent with what he wrote in 1917 on "The Visibility of the Church."[22] His argument,

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18. Carl Schmitt, *Römischer Katholizismus und politische Form* (1923), Third Edition (Stuttgart: Klett-Cotta Verlag, 1984), p. 28. Three other quotations will suffice: "Poor Donoso, the theological concept adequate to his political theory would have been the *katechon*; instead, he got lost in the labyrinth of theories of absolute and relative natural law (Letter to the Director of *Heraldo*, Paris, April 15, 1852). There is a very simple sociological explanation for the hopelessness of Charles Peguy's complaint that he has no success with Catholics. Perhaps the Jesuit order was the *katechon*. But since 1814? A restored *katechon*?" The next day Schmitt wrote: "It is refreshing to read Hobbes on the legal situation of prisoners. There are no binding contracts in the state of nature; they are really the elements of law; no other has presented them so elementally and correctly." Schmitt, *Glossarium*, *op. cit.*, p. 70. And the day after he wrote: "I should join in the discussion of Catholic questions as a layman, as a non-theologian? In order to be taught, like Donoso Cortés? *Ubi nihil vales, ibi nihil velis* [Where you have no value, there you should not venture]. I, as a jurist, i.e., a detheologized scholar of the first rank? Poor Donoso!" *Ibid.*, p. 71.

19. Cf. Carl Schmitt, "Donoso Cortés in Berlin (1849)," in Schmitt, *Donoso Cortés in gesamteuropäischer Interpretation: Vier Aufsätze* (Cologne: Greven Verlag, 1950), pp. 41-66.

20. Schmitt, *Political Theology*, *op. cit.*, p. 65 (translation altered).

21. My translation of *Römischer Katholizismus und politische Form* will be issued sometime later this year by Greenwood Press.

22. Carl Schmitt, "Die Sichtbarkeit der Kirche: Eine scholastische Erwägung," in *Summa: Eine Vierteljahresschrift* (1917), pp. 71-79.

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however, is different because he had come to a new understanding of the relation between state and Church, whereby the state was the preeminent institution of secularization. Schmitt had discovered Hobbes as an alternative to the Catholic Church's monopoly of decision. This is why in Schmitt's view Hobbes had "completed" the Reformation: he had recognized that every struggle between Church and state jurisdiction is *political* in that it entails self-determination.[23] For Schmitt, this constituted the fulfillment of the Reformation.[24]

Schmitt called this overcoming of religious civil wars "detheologization," which meant "juridification." He claimed it was impossible to comprehend the development of the *jus publicum Europaeum* independently of the transformation of the "spatial order" of the Christian Middle Ages, at which time the basis of international law was the *res publica Christiana*. Its unity consisted in *imperium* and *sacerdotium*, whose visible agents were the emperor and the pope. But this unity was never centralized. From the beginning it was based on the distinction of *potestas* and *auctoritas* as two different orders. Yet the antithesis of emperor and pope was not absolute. The history of the Middle Ages was not in Schmitt's view a struggle *against* but *for* Rome.

The subsequent dethroning of emperor and pope entailed not only detheologization but the abolition of the bases of the former spatial order of the *res publica Christiana*. Most important for Schmitt, however, was that this historical turning point was signaled also by the transformation of the concept of *justa causa,* the just cause of war, into the *justus hostis*, the just enemy. What determined a just war was no longer the Church but the sovereign state. Once the *justa causa* was replaced by the *justus hostis* every war between equally sovereign states was a just war — a legal war in which the enemy was no longer treated as a criminal but as a combatant. For Schmitt, this concerned the much deeper antithesis of

23. "All metaphysical, moral-theological, natural-legal and canonical-juridical distinctions of the Roman Church have ultimately and always maintained that spiritual power as the higher power. It is also best suited to answer the question '*Quis judicabit?*' Above all the distinction of direct and indirect spiritual jurisdictions actually signified that spiritual power decided as soon as its existential interest in the concrete situation was strong enough. The epochal significance of Thomas Hobbes resides in that he clearly and conceptually recognized the purely political meaning of the spiritual claim to decision." Carl Schmitt, "Die vollendete Reformation: Bemerkungen und Hinweise zu neuen Leviathan Interpretationen," in *Der Staat*, Vol. 4, No. 1 (1965), p. 64.

24. According to Schmitt, it was "the consummation of an epoch forged in the fires of the religious civil wars for which the *jus reformandi* (from the standpoint of the Middle Ages) was at once the highest rule but at the same time (from the standpoint of the modern state which had arisen thereby) already a right of sovereignty. It was in a specific sense the consummation of a theological-political age." *Ibid.*, p. 65.

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two fundamentally different orders. In this respect, the distinction between enemy understood in the personal sense of *inimicus* and in the specific sense of *hostis* (the public enemy) is essential because the political enemy is always the public enemy. As with the *justus hostis,* the determination of the public enemy is both a rational and a political process.

Palaver writes: "Along with Girard, Schmitt maintains that enmity originates between those who are similar — like brothers. If enmity does originate in the most personal relations, ultimately Schmitt's separation between private and public enemy does not hold." What is wrong with this conclusion is that enmity for Schmitt does not originate in the most personal relations — at least not enmity in the public sphere. He distinguishes between the "true enemy," which obtains among similar or even fraternal political entities, and the total or "absolute enemy" — the "foe," which obtains among radically different political entities.[25] Palaver overlooks this distinction between enemy and foe.[26] The distinction is essential not only to an understanding of Schmitt's concept of the political but also of the *jus publicum Europaeum.*

What is Political Theology?

The key to understanding Schmitt's *Political Theology* is his claim that he is "not concerned with any theological dogma but with . . . the structural identity of concepts, of theological and juridical argumentation and cognition." Even more to the point, his work deals with "the classical case of a reoccupation, with the help of specific concepts formed in the systematic thinking of both the most highly developed and perfectly formed historical examples of 'western rationalism,' namely between the Catholic Church with its completely juridical rationality and the state of the *jus publicum Europæum.*"[27] The development of the Catholic philosophers of the Restoration — from Joseph de Maistre to Donoso Cortés, from legitimacy to dictatorship — is understood in terms of the increasing *intensity* of decision,[28] which is the thesis in *The Concept of the Political.*

"A Girardian reading of *Political Theology*" emphasizes not only the

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25 It is indicative that Palaver never mentions Schmitt's sequel to *The Concept of the Political*, which deals with the question of the "real enemy" and the "absolute enemy." See Carl Schmitt, *Theorie des Partisanen: Zwischenbemerkung zum Begriff des Politischen*, Second Edition (Berlin: Duncker & Humblot, 1975).

26 Cf. George Schwab, "Enemy or Foe: A Conflict of Modern Politics," in *Telos* 72 (Summer 1987), pp. 194-202; and G. L. Ulmen, "Return of the Foe," *ibid.*, pp. 187-193.

27. Carl Schmitt, *Politische Theologie II: Die Legende von der Erledigung jeder Politischen Theologie* (Berlin: Duncker & Humblot, 1970), pp. 22 and 110.

28. Schmitt characterized Restoration Catholic philosophers as not only "intelligent critics and good sociologists" but even as the "fathers of modern sociology" in *ibid.*, p. 36.

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need for a decision as the origin of every legal order but also makes clear that every legal perception contains a decisionist element." This is false in that it fails to distinguish between nomos and the exception. Here Palaver cites two other similarities between Girard and Schmitt, only one of which is partly correct. For one, Palaver writes that "both Girard and Schmitt claim that culture in general and the political in particular are rooted in religion." Schmitt makes no such claim for culture. For another, Palaver writes that both Girard and Schmitt "are critical of Rousseau's faith in the intrinsic goodness of man and emphasize original sin. Schmitt further notes that Hobbes and Donoso emphasize the problematic character of human nature." This oversimplifies Schmitt's position.

In *Political Theology* Schmitt recognized that "every political idea in one way or another takes a position on the 'nature' of man and presupposes that he is either 'by nature good' or 'by nature evil'."[29] In *Roman Catholicism and Political Form* there is, on the one hand, the Tridentine Creed, which does not speak of natural depravity and leaves open the possibility of the natural goodness of man and, on the other, Donoso Cortés, who radicalized the dogma of original sin into one of absolute depravity. As Schmitt notes, Abbé Gaduel, who criticized Donoso from the standpoint of Catholic dogma, was right when he voiced misgivings about Donoso's exaggeration of the natural evil and unworthiness of man. Nevertheless: "It was certainly not right to have overlooked the fact that for Donoso Cortés this was a religious and political decision of colossal actuality and not just the elaboration of dogma."[30] From Hobbes to the Restoration the concept of "society" was based on the notion of man "by nature evil," i.e., on the actual or potential *bellum omnium contra omnes*. But in *Roman Catholicism and Political Form* it is beside the point whether or not the legality of the visible world is "by nature good" because the juridical regulation of human relations is now the concern of the state. Side by side are Hobbes and the pope, the state and the Church, the sovereign decision and the Last Judgment, the juridical and the theological.

Hugo Ball's famous essay on Schmitt[31] elaborates the relation between *Political Theology* and *Roman Catholicism and Political Form*. Among other things, Ball stresses that Schmitt was "in no sense a theologian (in the

29. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. by George Schwab (Cambridge, MA and London: MIT Press, 1985), p. 56.

30. *Ibid.*, p. 57.

31. Hugo Ball, "Carl Schmitts Politische Theologie," in *Hochland*, Vol. 21, No. 2 (April-September 1924), pp. 261-286. See the reprint of this article in Jacob Taubes, ed., *Der Fürst dieser Welt: Carl Schmitt und die Folgen* (Munich, Paderborn, Vienna and Zurich: Wilhelm Fink Verlag and Verlag Ferdinand Schöningh, 1983), pp. 100-115.

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strict sense) or romantic Catholic,"[32] but rather an idealogue or "theologian" of jurisprudence.[33] With respect to political theology, he asserts that analogies between theology and law ultimately lead to the establishment of theology as the highest "form" of jurisprudence, although he is unable to answer the question: "What is the relation of jurisprudence to the highest instance?" In any case, Schmitt's concept of political theology, like his concept of political form, presupposes that there is always an idea or metaphysical certainty, be it the Christian god or whatever, behind every system of law, every order of existence.

At the conclusion of his article Palaver claims that Schmitt's thinking, like that of Hobbes, Donoso and the Grand Inquisitor, "remains essentially sacrificial. In Schmitt's own words, this means that Christ has to be kept away from politics as far as possible. In this sense, Schmitt's work *exemplifies a type of 'Christianity without Christ,' or a sacrificial form of* Catholicism." But here Palaver is sacrificing Schmitt's thinking to Girard's categories. He can only do so by ignoring Schmitt's discussion of "political Christology." As Schmitt explains, his elaboration of political theology moves "in a general direction which began with the *jus reformandi* of the 16th century, reached its zenith with Hegel, and is today everywhere recognizable — from political theology to political Christology."[34] Schmitt cited Hegel's claim that it is "folly" for a new age to consider a *jus revolutionis* without first having experienced a *jus reformandi*, which he found to be a clear expression of political theology,[35] namely that it recognized the structural identity between "the metaphysical image of the world a particular age creates" and "the form of a political organization." In Hegel's view, it was impossible to

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32. *Ibid.*, p. 100.

33. In "The Plight of European Jurisprudenoe" Schmitt stresses that he is neither a theologian nor a philosopher. The reason he emphasized the distinction between jurisprudence, theology and philosophy so strongly is that jurisprudence only came into its own in its struggle with these two faculties. But since philosophy claims to deal with publicly reached and demonstrable truths, and since one of the essential qualities that has shaped the view of political theorists about what is "political" is its relation to what is "public," the line disappears with the end of the civil war between the faculties. Not so with theology, which remains opposed to the secular domain of jurisprudence. Schmitt's metaphorical characterization of himself as a "theologian of jurisprudence" (in Schmitt. *Glossarium*, *op. cit.*, p. 23) is consistent with his political theology. Against the positivization and "motorization" of law into mere legality — against legalitarianism — he insisted that there must be an ultimate ground of authority. See Paul Piccone and G. L. Ulmen, "Schmitt's 'Testament' and the Future of Europe," in *Telos* 83 (Spring 1990), pp. 3-34.

34. Schmitt, *Politische Theologie II*, *op. cit.*, p. 92. Cf. G. W. F. Hegel, *Enzyklopädie der philosophischen Wissenschaften im Grundrisse* (1830), Friedhelm Nicolin and Otto Piiggeler, eds. (Hamburg: Verlag Felix Meiner, 1959). p. 436.

35. Schmitt, *Politische Theologie II*, *op. cit.*, p. 11.

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construct a new form of state antithetical to the sacred or secular beliefs of the polity. Schmitt contrasted Hegel's position with that of Goethe's famous motto — "*nemo contra deus nisi deus ipset*" (only a god can compete with another god),[36] which he found to be a clear expression of political Christology. Here the *jus reformandi* is rejected in favor of proceeding directly to the *jus revolutionis*.

What then is political Christology? For Schmitt, it is none other than "Christianity without Christ." It is the counterpart of "total atheism" — the substitution of the "idea of progress" for the messianic eschatology of Christianity. Although Schmitt considered Hegel a *katechon* (because he sought to demythologize the Enlightenment project by exposing the structural identity of religious belief and "pure insight"), his critique of political Christology is not theological in character.[37] Seeing himself also as a *katechon*, Schmitt could hardly fulfill the role Palaver attributes to him.

What is political theology? It is not some hidden agenda but rather a didactic means of understanding the structural relation between two frameworks. Schmitt's key statement concerning political theology is unambiguous: "All significant concepts of the modern theory of the state are secularized theological concepts."[38] One can say that it is analogical, since Schmitt stresses "the significance of such fundamentally systematic and methodical analogies" as that between the exception in jurisprudence and the miracle in theology. Schmitt also defines political theology as a "sociology of juridical concepts." But it is not sociological in any positivistic sense and certainly not theological in any scholastic sense, let alone anthropological in any Girardian sense.

36. Schmitt, "Nachwort," in Schmitt, *Politische Theologie II*, *op. cit.*, pp. 122-123.

37. Reinhard Mehring claims the opposite, i.e., that Schmitt's critique of political Christology is a "theological critique." Having committed himself to argue that Schmitt held a fundamentally Catholic position, he can only go on to misunderstand both political theology and political Christology. This also leads him to misunderstand Schmitt's relation to Hegel, which he distorts with references to Heidegger. He also misunderstands Schmitt's use of the concept of *katechon*, whereby he has Schmitt trying to prove the link between Christianity and conservatism. Cf. Mehring, *Pathetisches Denken: Carl Schmitts Denkweg am Leitfaden Hegels. Katholische Grundstellung und antimarxistische Hegelstrategie* (Berlin: Duncker & Humblot, 1989), pp. 222-229.

38. Schmitt, *Political Theology*, *op. cit.*, p. 36.

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Enemies, Scapegoats and Sacrifice: A Note on Palaver and Ulmen

David Pan

The relation between politics and individual experience has never been convincingly articulated. Palaver tackles this question by connecting Carl Schmitt's political reconstructions with René Girard's cultural theory. While Schmitt traces political concepts such as sovereignty and the state back to their theological origins, he only deals with these issues on the institutional level. He does not discuss the dynamics of individual experience associated with these developments. Girard's theory of culture seems to fill these *lacunae*. In order to locate a basic instinct for violence, he approaches relations between individuals in terms of imitation and desire, from which he develops a theory of the origin of culture. This theory is meant to provide a framework for explaining both historical and mythic events. Palaver attempts to show that the two approaches are complementary. While Schmitt may not deal with mimetic violence and Girard has little to say about the *jus publicum Europæum*, they both speak about decisions and enemies as determinants of identity — political identity for Schmitt (in terms of sovereignty) and cultural identity for Girard (in terms of community cohesion).

The main difference between Palaver and Ulmen is whether this congruence of "decision" and "enemy" can link Schmitt and Girard or is merely a superficial coincidence. Ulmen claims that Palaver does not provide a convincing argument for the predominance of Donoso Cortés' theology in Schmitt's theories of the state. Though this is a seemingly minor point, it allows Palaver to invoke Girard's cultural theory to explain Schmitt. The argument here turns on an equation of political enemies with scapegoats. The disagreement with Ulmen is evident in

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their respective interpretations of Schmitt's view that "there is no politics without authority and no authority without an ethos of belief." While Palaver does not mention this quotation, his attempt to combine Girard and Schmitt addresses the problem of the ethos of belief by analyzing state sovereignty in terms of religious sacrifice. He assumes that an ethos of belief must be based on a religious ethics and proposes Girard's scapegoat mechanism as the basis for a "sacrificial" religious ethics. In contrast, Ulmen attempts to separate "the ethos of belief" from religious foundations by emphasizing the "detheologization" of politics in the development of the state in the 17th century. "Schmitt's reference to 'divine law' does not mean either Catholic theology or God's law but rather an authoritative instance . . ." This authoritative instance is no longer necessarily religious and Ulmen finds futile Palaver's effort to locate a specifically religious foundation for political sovereignty after the 17th century.

Because in Girard scapegoats become common enemies against which cultural identity and ethics are constructed, Palaver argues that Schmitt's invocation of enemies in his definition of the political is an example of the scapegoat mechanism. For Palaver, the sovereign's decision about the enemy is equivalent to the creation of a scapegoat at the origin of culture. The secularization of politics with the advent of the *jus publicum Europæum* is for Palaver a continuation of religious sacrifice because the sovereign state still depends on the outside enemy as a symbolic victim necessary to maintain the state's authority. Ulmen argues against this identification of Schmitt's enemies of the state with Girard's scapegoats because Palaver's linkage of Schmitt's political theory to Girard's cultural theory assumes an unbroken continuity between cultural and political theory without showing how they actually relate. Palaver's proposed connection between Schmitt and Girard hinges on an identification of the scapegoat mechanism, which generates culture, with Schmitt's state of exception, the origin of state politics. As Ulmen emphasizes, the state of exception and the decision arising from it are not prior to cultural order. "Something that does not yet exist cannot decide anything." The exception does not create the rule, but merely confirms its prior existence, and Palaver himself admits that "in the state of exception there is still some kind of order." Ulmen questions whether Schmitt's exception can be identified with Girard's scapegoat, i.e., whether a determination of political enemies is possible without the prior existence of community order.

Furthermore, enemies in Schmitt can legitimate state authority only because they pose a *real* threat. In Girard's theory scapegoats are not a

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real threat, but only provide ways for the community to vent its aggression. Though scapegoats do not pose any real threats, they are surrogates for a real threat, which is the uncontrolled proliferation of acts of vengeance within the community. Since no one in particular is responsible for this "sacrificial crisis," the blame must be attributed arbitrarily to a member of the community in order for the community to come together to confront this "surrogate enemy." Palaver argues that even in Schmitt the real threat is mimetic violence rather than the real enemy, and Schmitt's failure to recognize this is due to his own inability to acknowledge the scapegoat mechanism. The final disagreement is about whether internal violence is always the primary threat to a community which is more important than external threats posed by nature or outside enemies. In order to resolve this it is necessary to enter into a more detailed discussion of Girard's theories and decide where the "real" threat to the community lies.

According to Girard, the mimetic character of violence, i.e. the fact that an act of violence will always engender other acts of violence because of the desire to imitate, is the basis for all of culture because culture always arises out of a prior state of disorder dominated by violent rivalies. Girard divides the imitation of acts of violence into two categories: acquisitive mimesis and conflictual mimesis. Though he bases culture on "acquisitive mimesis" which "divides by leading two or more individuals to converge on one and the same object with a view to appropriating it,"[1] this form of mimetic violence is no different than the idea that resources are limited and people will fight to obtain them. In order to move beyond scarcity as the basis of culture, Girard must emphasize the proliferation of a type of violence whose object is not the acquisition of a particular resource but the mere continuation of aggression against a rival.[2] This "conflictual mimesis" is the key to Girard's theory. Though he argues that one leads into the other, in fact they are theoretically autonomous. "Once the object has disappeared and the mimetic frenzy has reached a high degree of intensity, one can expect conflictual mimesis to take over and snowball in its effects. Since the power of mimetic attraction multiplies with the number of those polarized, it is inevitable that at one moment the entire community will find itself unified against a single individual. Conflictual mimesis therefore creates a *de facto* allegiance

1. René Girard, *Things Hidden since the Foundation of the World* (London: The Athlone Press, 1987), p. 26.
2. René Girard, *Violence and the Sacred* (Baltimore and London, Johns Hopkins University Press, 1977), p. 31.

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against a common enemy, such that the conclusion of the crisis is nothing other than the reconciliation of the community."[3] For Girard, violence becomes an end in itself. Such violence without an object cannot stop of its own accord, but must be constantly confronted.[4] Given such a predicament, the only way to maintan culture is through the continuual creation of victims — scapegoats killed to limit aggression to particular times and places. The initial death of an innocent victim is the founding act of a culture because it limits violence to a single act rather than letting it run rampant. Not the symbolic significance but the physical act of ritual sacrifice, repeating the original victimization, becomes the basis of culture.

Having demonstrated the necessity of sacrifice, Palaver, following Girard, shifts gears and argues that this ritual sacrifice is irrational because the victim is innocent. He distinguishes between his particular interpretation of Christianity, which recognizes the innocence of sacrificial victims, and sacrificial religions, which emphasize the victim's guilt and justify violent sacrifice. Because it emphasizes Christ's innocence, Christianity is the only religion which unmasks the injustice of the scapegoat mechanism and of ritual sacrifice. In preaching love of enemies and attempting to discourage violence toward rivals and victims, the Sermon on the Mount presents the only chance to escape a culture based on sacrifice. On the one hand, sacrifice is necessary for the founding and maintenance of a culture but, on the other, unnecessary once Christianity reveals that sacrificial victims are innocent. While Christianity identifies with the victims, all other religions (relegated to the status of "myth") only know violence against their victims. Not only does Palaver describe other religions as the ideologies of lynchers (and therefore barbaric in comparison with Christianity), in spite of the underlying superfluousness of sacrifice, he also attributes the existence of these sacrificial religions to their uniformly unreflective character. Mythic thinking, the basis of sacrificial religion, "is ignorant about itself and allows no inner reservation." Palaver insists not only that Christianity is more benevolent than other religions, but that it is more reflective and more true. Consequently: Christianity is the only true religion and preferable to all others.

A closer examination of Girard's cultural theory reveals two main problems in the differentiation between sacrificial (mythic) and non-sacrificial (Christian) culture. First, progress from sacrificial to Christian culture is possible only if the mechanism of sacrifice is an arbitrary

3. Girard, *Things Hidden since the Foundation of the World*, *op. cit.*, p. 26.
4. Girard, *Violence and the Sacred*, *op. cit.*, p. 10.

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construct.[5] There is a constant tension in the theory between the presumed necessity of sacrifice for the origin of culture and the arbitrariness of sacrifice for its survival. Second, contrary to Girard's understanding, sacrificial victims and scapegoats must be sharply differetiated because sacrifice always depends on a conscious identification with the victim. The weakest point in Girard's theory is the explanation for the origin of sacrifice. In basing sacrifice on mimetic violence and rivalry, he overlooks the basis of religious sacrifice in objective need within the community. If sacrifice is necessary for the origin of culture, it must also be necessary for its continued survival. A culture alienated from its original *raison d'être* cannot maintain itself, and Girard's distinction between what is necessary for the creation of culture and what is necessary for its survival argues against the significance of mimetic violence for religious sacrifice. If religious sacrifice is essential for creating culture, it is not due to mimetic violence but to the limitations of nature and the scarcity of resources. In making collective action necessary for survival and prosperity, the community requires rules to govern relations between individuals in order to attain common goals. Sacrifice implies a submission to community, but only if sacrifice is conceived, not as violence, but as the rational recognition of the constraints imposed by nature. Religious orders based on sacrifice represent the internalization of the violence of nature against humanity's struggle for permanence. The justification for a religious order would be the community's need to internalize the violence of nature threatening the community in order to defend itself against it. The basis of this defense is sacrifice in the broadest sense.

To be part of a community means to give up part of one's freedom — to make sacrifices in one own's life for the sake of the community. Sacrifice in myth or in ritual refers to this everyday need in the life of each member of a community. The power of myths or rituals, and the corresponding strength of the community, would lie in the internalization of this sense of sacrifice in the life of each member. Myths or rituals do not create but only reinforce this sense of sacrifice by reminding the community of a prior exemplary sacrifice on the part of one of its members. Here Girard's basing of culture on a primal act of sacrifice makes sense. But, contrary to Girard, this primal act can only forge the community if the victim is *recognized* as an innocent member of the community who dies for the sake of the community. This sacrifice is something which the collective involuntarily gives up, but only because it sees itself forced to do so to guarantee its continued existence. This kind of sacrifice is

5. *Ibid.*, p. 311.

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common to both Christian and non-Christian religions. Nature (or the limiting conditions of reality) is what ultimately demands sacrifice. Because the collective cannot survive without the willingness of each of its members to make sacrifices, all mythic sacrifices must include an identification with the victim. Without this, there would be neither a sense of loss, impressing on the community the necessity of a strong ethic, nor a willingness to emulate the self-sacrifice of one of its members in order to guarantee community strength. This does not depend on sacrifice itself as much as on *willingness* to sacrifice.

The distinction is reflected, for example, in the story of Abraham's sacrifice of his son Isaac. The actual deed was not necessary because Abraham demonstrated his willingness to make the sacrifice before it was actually carried out. Girard recognizes that the original "surrogate victim" which founds a culture must be innocent, but argues that non-Christian religion must hide this innocence in order to continue. For this reason, while "the surrogate victim comes from inside the community" and is the original scapegoat on which the community blames the outbreak of violence, "the ritual victim [in sacrifice] must come from outside ; otherwise the community might find it difficult to unite against it."[6] Thus Girard separates the initial act of scapegoating which founds a culture from the victim of a sacrifice. He does this in order to affirm the innocence of the victim in sacrifice while emphasizing that this innocence must be hidden in a sacrificial culture.

Girard's mixing of innocence and guilt in the victim is an attempt to explain the identity of the sacrifice with the scapegoat. In fact, there has been from the first description of the scapegoat in the *Bible* a strict separation between the two.[7] The scapegoat, which symbolizes guilt, is not killed but sent out into the wilderness to illustrate that the inability to accept losses for the good of the community signifies the disintegration of the community and its own banishment into the wilderness. Those who refuse to make sacrifices are the scapegoats because they are not willing to make concessions for the good of the community. The proper punishment for such people is the same as for the scapegoat — not death, but

6. Girard, *Violence and the Sacred*, *op. cit.*, p. 102.

7. "And Aaron shall cast lots upon the two goats; one lot for the Lord, and the other lot for the scapegoat. And Aaron shall bring the goat upon which the Lord's lot fell, and offer him for a sin offering. But the goat, on which the lot fell to be the scapegoat, shall be presented alive before the Lord, to make an atonement with him, and to let him go for a scapegoat into the wilderness" (Leviticus 16: 8-10). The sacrificial goat must be pure and is an innocent sacrifice. The scapegoat, however, "shall bear upon him all their iniquities unto a land not inhabited . . ." (Leviticus 16:22).

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banishment.[8] Whereas Girard sees sacrifice as a controlled outlet for violence, the *Bible*, in differentiating a killing which is not a sacrifice from a killing which is, demonstrates that the significance of the sacrifice is not in release of violence but in the offering of the sacrifice to God according to the laws of the community rather than keeping it for oneself. The man who does not offer the killed animal as a sacrifice becomes guilty of a sin against the community and is cut off from the community, banished like the scapegoat. He is considered guilty of murder because killing must be maintained as a community decision rather than as an individual one. Sacrifice and scapegoat are radically different because their importance lies not in ritual violence, as Girard argues, but rather in the loyalty or disloyalty to the community which they symbolize. The function of the sacrificial goat and of the scapegoat is not to provide a vent for built up aggression but to continually remind individuals of their obligations to the community.

The power of sacrifice in myth or ritual is only a gauge of the strength of the community, not a prerequisite for it, and the importance of myth and ritual lie in their symbolic not ritual character. Innocent victims who die for the community do not have to appear directly in order to provide the basis of a ritual sacrifice. Though the real death of a member of the community may be the event to which the experience of the sacred refers, this death is not the act which actually creates the sacred. The creation of the sacred is fundamentally an aesthetic act. Since the survival of the community depends on the selfless acts of individuals who sacrifice themselves for the good of the community, in order to create an experience of the sacred it is only necessary to take a pre-existing example of such an act and relate it effectively to the community through ritual or myth. The death of Christ was turned into the basis of religious myth and ritual by the myth and rites constructed after his death in order to commemorate it. The religious act was not his death, but the construction of the mechanisms which commemorated it as a sacrifice and not as a scapegoating. The death was the prerequisite of the sacred. But the construction of the sacred is not based on killing someone. Rather, it is based on recalling to mind a past sacrifice.

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8. "What man soever there be of the house of Israel, that killeth an ox, or lamb, or goat, in the camp, or that killeth it out of the camp, and bringeth it not unto the door of the tabernacle of the congregation, to offer an offering unto the Lord before the tabernacle of the Lord; blood shall be imputed unto that man; he hath shed blood; and that man shall be cut off from among his people:" (Leviticus 17: 3-4).

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It is this fundamentally aesthetic act which is the basis of religion and of the sacred for culture.[9]

The existence of the sacred depends on the need for individual sacrifice to insure community survival. The need is a consequence of the fact that resources are limited and people must sacrifice certain things in order to survive as a group. Though enemies can be a possible threat to the community, they are not essential for the origin of culture. The sense of urgency provided by the enemy already exists in relation to nature. While the debate between Palaver and Ulmen fails to provide a unified theory of culture and politics, the discussion demonstrates the importance of an analysis of religion and sacrifice for the development of such a theory. Whether Schmitt's political theology can be integrated within such a framework depends on the configuration that such a framework will take.

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9. Girard unconsciously provides another example for the superfluity of killing when he describes ancestor worship. See Girard, *Violence and the Sacred*, *op. cit.*, p. 256: "The worship of the dead, like the worship of the gods, represents an interpretation of the role of violence in the destiny of a community. In fact, it is the most transparent of all such interpretations, the closest to what actually occurred *the first time* — except, of course, that it has misconstrued, as always, the mechanism of recovered unanimity. This interpretation states explicitly that the origin of any cultural order involves a human death and that the decisive death is that of a member of the community." The important factor in the worship of the dead is not their victimization by the community, but the sacrifices which they made so that the community could continue. Girard is forced to use the word "death" instead of killing or victimization because in ancestor worship, contrary to his theory, no victimization is necessary, only self-sacrifice. In another passage, Girard refers specifically to the idea of self-sacrifice without, however, being able to separate it from the idea of surrogate victim. "In popular legend and fairy tale Chance is often invoked to 'find' kings or, conversely (and the converse is always the other face of the same coin), to designate someone to undertake a difficult or perilous mission, a mission that might involve self-sacrifice for the general good — someone, in short, to assume the role of surrogate victim:" *Ibid.*, p. 312.

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The Fiscal Crisis of Post-Communist States

John L. Campbell

Despite successful efforts to balance the budget in 1990 through reductions in spending for health care, education, and enterprise subsidies, the Polish government spent 11% more than it raised in revenues in 1991[1] and anticipates a budget deficit of more than 65 billion zloty in 1992.[2] The International Monetary Fund (IMF) warned that unless the deficit is limited to 5% of Gross National Product in 1992, credits will be suspended.[3] Other post-communist states have experienced similar budget problems.[4] Although recently several of these states have reduced their deficits, their revenue bases are so unstable that further problems are likely.[5] To the extent that these deficits are a chronic manifestation of the transition from socialism to capitalism and undermine the ability of post-communist states to perform their necessary functions, they constitute a *fiscal crisis*.[6]

1. Grzegorz Kolodko and Danuta Gotz-Kozierkiewicz, "Fiscal Adjustment and Stabilization Policies in Eastern Europe." *Oxford Review of Economic Policy*, Vol. 8, No. 1, p. 20 (forthcoming).
2. Stanislaw Owsiak, "The Financial Crisis of the State in the Process of Systemic Change." Paper presented at the Conference on Post-Socialism: Problems and Prospects, Ambleside, England (1992).
3. Stephen Engelberg, "Polish Government Completes a Budget Approved by IMF," in *The New York Times* (March 10, 1992), p. A9.
4. Janos Kornai, *The Road to a Free Economy* (New York: Norton,1990), pp. 114-37.
5. *Reforming the Economies of Central and Eastern Europe* (Paris: Organization for Economic Cooperation and Development, 1992), p. 32.
6. Jerzy Hausner, "The Post-Socialist State in the Process of Systemic Transformation." Transformation Processes in Eastern Europe, Seminar Paper No. 5. Cracow Academy of Economics (1991), pp. 28-29.

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The following is an initial attempt to develop a theory of fiscal crisis in post-communist states. Considerable attention is paid to Poland because it is the country which, more than any other, has undertaken economic reform. Given that many other post-communist countries are at a stage of development in many respects comparable to Poland a year ago,[7] the Polish case may also provide a glimpse of what the future holds for these other countries.

Theories of Fiscal Crises in Capitalist and Socialist States

According to James O'Connor, democratic capitalist states, understood as fully developed Keynesian welfare states, must maintain conditions making possible both profitable capital accumulation *and* social harmony.[8] They do this by providing *social capital* for education, research and development, and other programs that improve the productivity of physical and human capital. They also fund medical care, housing, and social insurance programs, which help maintain and reproduce the labor force. Similarly, they shoulder the burden of various *social expenses* that arise from the contradictions of capitalism. Thus, they finance a limited range of welfare programs, many of which are available on a means-tested basis, to appease the working class and maintain political stability. They also finance military programs to absorb excess production in an economic system inclined toward overproduction. These expenditures help to stimulate *accumulation* while maintaining the political *legitimacy* of the system.

The pressure on capitalist states from capitalists, workers and others to increase expenditures is great. In order to pay for rising expenditures, political elites have several choices. First, they can generate profits for the state through state-owned enterprises. But they rarely exercise this option because state ownership violates the appropriate division of labor between state and business. It is generally acceptable only in situations where private firms cannot operate profitably.[9] Second, they can raise taxes. But this can lead to tax resistance, particularly among well-organized monopoly sector firms and unions, or to inflation since tax increases are passed along to consumers through higher prices. Under normal conditions, raising taxes can also precipitate capital disinvestment

7. *Reforming the Economecs of Central and Eastern Europe* , *op. cit.*, p. 32.

8. James O'Connor, *The Fiscal Crisis of the State* (New York: St. Martin's Press, 1973). O'Connor's theory of fiscal crisis best fits the post-WII American and British states rather than others, such as the Swedish state, that provide more universal social programs.

9. Claus Offe and Volker Ronge, "Theses on the Theory of the State." *New German Critique* 6 (Fall 1975), pp. 139-47.

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and, as a result, unemployment and a political backlash political elites would rather avoid.[10] Third, governments can borrow money to cover the difference between expenditures and revenues. But this generates deficits that may trigger inflation, higher interest rates, and economic contraction. Nevertheless, O'Connor argues that political elites are predisposed to borrowing because it allows them to meet the demands of their constituents in the short term. As a result, expenditures tend to rise faster than revenues, which is why capitalist states are inclined toward fiscal crisis.[11]

O'Connor has been criticized for suggesting that widespread state ownership provides a solution to fiscal crisis. Socialist states also confront accumulation and legitimation concerns that can precipitate fiscal crises.[12] After all, socialist states have assumed primary responsibility for managing and planning socialist accumulation. In particular, they set production targets and prices, subsidize inefficient enterprises, generate demand for many of the goods the economy produces, and create most of the jobs in the economy. They also reproduce the labor force through the provision of housing, education, and the like. Furthermore, despite the fact that socialist states often rely heavily on coercion to maintain social stability, in order to meet their ideological commitments and maintain at least a minimal base of political legitimacy they also offer a wide range of social services to virtually all citizens at little or no direct cost to the recipients.[13]

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10. Fred Block, "Beyond Relative Autonomy: State Managers as Historical Subjects," in Ralph Miliband and John Savelle eds., *The Socialist Register* (London: Merlin, 1980).

11. For further discussion of these issues, see Daniel Bell, *The Cultural Contradictions of Capitalism* (New York: Basic Books, 1976); Fred Block, "The Fiscal Crisis of the Capitalist State." *Annual Review of Sociology*, No. 7 (1981), pp. 1-27; Samuel Brittan, "The Economic Contradictions of Democracy." *British Journal of Political Science*, Vol. 2, No. 5 (1975), pp. 129-59; Rudolf Goldscheid, "A Sociological Approach to Problems of Public Finance," in Richard A. Musgrave and Alan T. Peacock, eds., *Classics in the Theory of Public Finance* (New York: MacMillan, 1958), pp. 203-13; Joseph A. Schumpeter, "The Crisis of the Tax State," (1918), pp. 5-38, in Alan Peacock, Wolfgang Stolper, Ralph Turvey, and Elisabeth Henderson, eds., *International Economic Papers*, No. 4, (New York: MacMillan, 1958); Richard Rose and Guy Peters, *Can Government Go Bankrupt?* (New York: Basic Books, 1978); and Murray Weidenbaum, "Budgetary Quandaries," in *Society*, Vol. 22, No. 1 (1984), pp. 48-52.

12. Bell, *op. cit.* For criticisms of other aspects of O'Connor's position, see Block, "The Fiscal Crisis of the Capitalist State," *op. cit.*; and Richard A. Musgrave, "Theories of Fiscal Crises: An Essay in Fiscal Sociology," in Henry J. Aaron and Michael J. Boskin, eds., *The Economics of Taxation* (Washington, D.C.: Brookings Institution, 1980), pp. 361-90.

13. Susan Eckstein, "On Socialist Fiscal Crisis: Lessons From Cuba," in *Theory and Society* Vo. 17 (1988), pp. 211-54; and Andrew G. Walder, "Corporate Organization

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The desire to industrialize, improve productivity and provide universal social services creates pressures to increase expenditures for socialist states.[14] However, such states operate under constraints that make it difficult to appropriate enough surplus to finance their expenditures. First, the so called "new class" of bureaucratic redistributors siphons off surplus for its own gain rather than reinvesting it more productively in the economy.[15] Second, the structure of socialist production itself undermines the ability to generate and appropriate enough surplus to cover expenditures. Given that the risk of unemployment is negligible and that promotion often depends on political criteria as well as job performance, socialist workers have little incentive to work as hard as their capitalist counterparts. Given soft budget constraints and the fact that enterprise managers are also evaluated by political criteria, socialist managers are under considerably less pressure than capitalists to maximize efficiency, productivity, and profit.[16] As a result, the state has less surplus to appropriate than would otherwise be the case.

Although more efficient and productive economic activity occurs in the underground economy[17] where private market-based transactions often occur surreptitiously, it is difficult for socialist states to monitor and tax this activity. While the introduction of limited market reforms increased productivity in some socialist countries before 1989, it did little to improve the revenue generating capacity.[18] Finally, tax avoidance among individuals, i.e., both legal and illegal practices meant to reduce tax payment, was rampant for years under state socialism not only

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and Local State Property Rights: The Chinese Alternative to Privatization." Paper presented at the conference on "The Political Economy of Privatization and Public Enterprise in Eastern Europe, Asia, and Latin America," Brown University, Providence, Rhode Island, 1992.

14. Ivan Szeleny, "astern Europe in an Epoch of Transition: Toward a Socialist Mixed Economy?" in Victor Nee and David Stark, eds., Remaking the Economic Institutions of Socialism (Stanford, CA: Stanford University Press, 1989), pp. 213-26; and Eckstein, *op. cit.*

15. Milovan Djilas, *The New Class: An Analysis of the Communist System* (New York: Harcourt, Brace, Jovanovich, 1957); George Konrad and Ivan Szelenyi, *The Intellectuals on the Road to Class Power* (New York: Harcourt, Brace, Jovanovich, 1979); and Ivan Szelenyi, *Urban Inequalities Under State Socialism* (New York: Oxford University Press, 1983).

16. Janos Kornai, "The Soft Budget Constraint," *in Kyklos*, Vol. 39, No. 1 (1986), pp. 3-30.

17. David Stark, "Rethinking Internal Labor Markets: New Insights from a Comparative Perspective." *American Sociological Review* Vol. 51, No. 4 (1986), pp. 492-504.

18. Eckstein, *op. cit.*; and Walder, "Corporate Organization and Local State Property Rights . . ." *op. cit.*

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because citizens had an economic interest in withholding taxes but because it was a culturally sanctioned form of resistance to oppressive and corrupt political regimes.[19]

Fiscal Crises in Post-Communist States

Post-Communist states also face the twin problems of *accumulation* and *legitimation* and will bear considerable responsibility for the provision of social capital and social expenses during economic reform. To the extent that price liberalization and the dismantling of the system of permanent subsidies proceeds faster than privatization, as it has in Poland, the state comes under pressure to continue providing capital to support inefficient state enterprises.[20] As enterprise subsidies were withdrawn in Poland, prices rose. Rather than paying substantially higher prices for factor inputs, state enterprise managers drew down their inventories. When they had to make purchases at inflated prices, they cannibalized the financial resources of their firms. However, these options were temporary and managers soon began to incur debt in order to keep their operations going.[21] First, state banks provided credit to the large inefficient state enterprises because bank portfolios were tied so closely to these enterprises that they could not afford to let them go bankrupt[22] and because enterprise directors still maintained strong interpersonal connections with bank managers — connections established under the old regime which often gave these enterprises an advantage in the competition for loans and credit at the expense of new private and potentially more efficient and productive companies with less clout.[23] Second, firms that depended on each other entered into complex relations of indebtness. Suppliers extended credit to their customers in order to protect their markets, and customers made loans to suppliers in order to ensure the necessary flow of

19. Kornai, *The Road to a Free Economy*, *op. cit.*, p. 118.

20. Claus Offe, "Capitalism by Democratic Design? Democratic Theory Facing the Triple Transition in East Central Europe," paper presented at the International Political Science Association Congress, Buenos Aires, Argentina (1991).

21. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 34.

22. Lawrence J. Brainard, "Strategies for Economic Transformation in Central and Eastern Europe: Role of Financial Market Reform," in Hans Blommestein and Michael Marrese, eds., *Transformation of Planned Economies: Property Rights Reform and Macroeconomic Stability* (Paris: Organization for Economic Cooperation and Development, 1991), pp. 95-108; and Manuel Hinds, "Strategies for Marketization: A Sequencing Problem," in *Transformation Processes in Eastern Europe*, Seminar Paper No. 1, Cracow Academy of Economics (1991).

23. "Crossing the East-West Chasm," in *The Economist* (May 16, 1992), pp. 57-56.

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supplies.[24] In sum, the state continued to sustain inefficient firms, either directly through banks or indirectly through credit arrangements with other state enterprises. As a result, most of the 5.5% increase in Poland's 1992 budget stemmed from increases in subsidies to state enterprises.[25]

Because the private sector has not developed fast enough to absorb all the workers that would be laid off if many large state enterprises were allowed to go bankrupt, in the immediate future the state will have to continue supporting these enterprises to mitigate against complete economic collapse and excessive unemployment.[26] In order to cultivate an environment conducive to capital accumulation, the state in Poland will have to invest in physical and human capital through expenditures for job training, education, the environment, and the improvement of infrastructure, such as telecommunication networks, electricity, and transportation systems, much as capitalist states do.[27] Finally, it is incumbent upon post-communist states to continue providing housing and services, such as health care and social insurance, as best they can in order to help reproduce the labor force since no one else is ready to assume this responsibility, at least during the early stages of economic reform. Indeed, housing shortages severely restrict labor market flexibility — an important prerequisite for a market economy in countries, such as Poland, Hungary, and Czechoslovakia, with high regional differences in unemployment.[28]

Insofar as legitimation is concerned, post-Communist states have inherited responsibility from their predecessors to provide a variety of universal social services, such as health care, education, and social

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24. Louis Uchitelle, "On the Path to an Open Economy, A Decrepit Steel Plant in the Urals," in *The New York Times* (July 2, 1992), p. 1; and Lawrence Weschler, "Deficit." in *The New Yorker* (May 11,1992), pp. 41-77.

25. Owsiak, *op. cit.*

26. Thus, despite pressure from Western creditors to streamline the economy, Russian officials have refused to close the outdated state-owned steelworks in Magnitogorsk because its 64,000 workers and their families constitute half of the city's half million people and officials fear the political consequences of such massive lay offs. See Uchitelle, "On the Path to an Open Economy . . ." *op. cit.* The huge Nova Huta steelworks in Poland and other large state enterprises that dominate local economies througnout the post-communist world present similar problems. As a result, so far all post-communist governments have almost entirely avoided shutting down large state enterprises. Cf. *Reforming the Economics of Central and Eastern Europe*, *op. cit.*, p. 34.

27. Although cellular phone systems have been introduced in some places, such as Budapest, they are no substitute for a national system based on the latest fiber optic technology. As a result, Western telecommunications companies are already negotiating agreements with some post-communist states to build new systems based on this technology.

28. Cf. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 54.

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security[29] without which political instability is likely.[30] The demand for these services increased throughout the post-communist world as economic reform triggered deep recessions, characterized by rising unemployment, inflation, and, as a result, declining standards of living.[31] Exacerbating these demands, people may not be prepared to wait for the benefits of economic reform, and may be unwilling to watch new economic elites get rich at their expense, particularly when these elites were already privileged under the old system.[32] Making matters worse, the ratio of old age pensioners to workers will rise from about 15% in 1990 to 25% in 2025 in most post-communist countries, further increasing the demand for social services.[33] The pace of this transition is quickening in Poland, where the number of pensioners rose by 12% since economic reform began in 1990 because older people facing unemployment opted for early retirement instead.[34]

The responsibilities for accumulation and legitimation will also entail an expensive period of intensive state-building. Although the old communist bureaucracies are being dismantled, post-communist states are creating offices for privatization and the regulation of banking, insurance, and anti-monopoly activities. Furthermore, because the secret police and their networks of informants have been abolished, new police forces must be built to cope with the increase in criminal activity. Perhaps most important, whereas previously many disputes were settled by Communist Party officials in the old regimes, a judicial apparatus must be built to assume these responsibilities in the new constitutional states.[35] All this state-building will create further pressure for state spending. Thus the pressures post-communist states experience to

29. Elzbieta Czarny and Boguslaw Czarny, "From the Plan to the Market: The Polish Experience." Economic and Social Policy Series Paper No. 7, Friedrich-Ebert Foundation, Warsaw (1991).

30. Jerzy Hausner, "The Post-Socialist State in the Process of Systemic Transformation." in *Transformation Processes in Eastern Europe*, Seminar Paper No. 5. Cracow Academy of Economics (1991).

31. Grzegorz Kolodko, "Recession and Growth During Transition to a Market Economy," in H. Winckler, ed., *East Central Europe: Roads to Growth* (Washington D.C.: International Monetary Fund, forthcoming); Grzegorz Kolodko and Michal Rutkowski, "Poland's Economic Transition: Expectations versus Reality." *Journal of Political, Social, and Economic Studies* Vol. 16, No. 2 (forthcoming). Janos Kornai, "The Postsocialist Transition and the State: Reflections in the Light of Hungarian Fiscal Problems," in *American Economic Review* Vol. 82, No. 2 (1992), pp. 1-21.

32. Offe, "Capitalism by Democratic Design?" *op. cit.*

33. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 36.

34. Owsiak, *op. cit.*

35. Kornai, "The Postsocialist Transition and the State," *op. cit.*

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maintain, if not increase, expenditures stem from their socialist legacies (e.g., the lingering relation between enterprise managers and bankers and the inherited commitment to provide universal social services), as well as the requirements of nascent capitalism (e.g., the need for physical and human capital improvements and the creation of new economic regulatory agencies). The problem is that post-communist states do not have enough revenue to cover these expenditures.[36] Thus, the budget problem has become so severe in Poland that it has critically limited the ability of the state to meet all of its responsibilities. So cuts have been made in virtually all public services at a time when they are needed more than ever.[37] These problems have spilled over into political arenas where, for example, they have contributed to gridlock in the Polish parliament. Finally, foreign debt has increased in most East European countries since 1988. The ratio of interest obligation to exports in hard currency in these countries ranged from 35% to 43% in 1990 and were relatively high evan by Latin American standards. In Poland, service on foreign debt will constitute nearly 20% of the 1992 deficit, thereby creating further budgetary pressure.[38]

Erosion of the Revenue Base

Even if the demand for expenditures remains stable or declines, post-communist states are still likely to generate fiscal crises because the revenue base of these states will deteriorate sharply as economic reform proceeds. In contrast to both capitalism and socialism, the most critical determinant of the fiscal crisis of post-communist states is *declining revenues* rather than rising expenditures. Indeed, although the Polish Ministry of Finance anticipated by mid-1991 a 15% decline in expenditures for the year, it expected revenues to drop by 22%.[39] Overall, revenues

36. Hinds, "Strategies for Marketization," *op. cit.*, p. 8.

37. Hausner, "The Post-Socialist State in the Process of Systemic Transformation," *op. cit.*, pp. 28-29.

38. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 63-65; Owsiak, *op. cit.*; Stephen Engelberg, "The Mood Turns Darker in East Europe's Drama," in *The New York Time* (June 14, 1992), Section 4, p. 4. Although servicing debt is a serious problem in all post-communist states, some are able to manage better than others. Whereas most of Poland's external debt is held by Western governments, Hungary's is held largely by Western commercial banks. Thus, while Poland has successfully negotiated debt reduction agreements with several of its creditors, it is much more difficult for Hungary to do so. See Susan M. Collins and Dani Rodrik, *Eastern Europe and the Soviet Union in the World Economy* (Washington D.C.: Institute for International Economics, 1991), pp. 17-18.

39. Kolodko and Gotz-Kozierkiewicz, "Fiscal Adjustment and Stabilization Policies in Eastern Europe," *op. cit.*, p. 17.

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declined by 8% of Gross Domestic Product (GDP) in 1991.[40] Thus a theory of fiscal crisis in post-communist states involves understanding how the implementation of economic reform affects the revenue base of these states.

To begin with, rapid liberalization of prices, creation of markets and deregulation of economic activity has led to declining output and recession in all post-communist countries.[41] As in Western countries, recession involves rising unemployment and bankruptcies that reduce the amount of income and profit available for taxation by the state.[42] Of course, the recession will eventually pass, unemployment will decline, new businesses will emerge, the economy will begin to grow again, and the state's revenue base will expand. More important, however, are the effects of privatization. Insofar as socialist states rely heavily on the appropriation of surplus from state enterprises to finance expenditures, the sale of state assets necessarily reduces the traditional core of the state's revenue base. The dilemma is severe (but not unusual) in Poland, where the state acquired over 80% of its revenues during the last years of socialism by appropriating surplus from state enterprises.[43] Privatization also contributes to fiscal crises in another way. It is extremely expensive to identify and establish the value of the assets and liabilities of state enterprises, particularly given the lack of domestic expertise in the subject. As a result, privatization of large-scale enterprises

40. Cf. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 32.

41. The more encompassing these reforms, the more severe the recession may become. Given the inefficiency of production methods in all post-communist countries, it is estimated that if world prices were enforced, sectors in which input costs exceeded the value of output, i.e., where value added is negative, would constitute 19% of all manufacturing in Czechoslovakia, and 24% in Poland and Hungary. Thus, a substantial portion of the manufacturing sectors in these countries would probably vanish. The problem is particularly severe insofar as many industries have become extremely energy intensive due to their dependency on subsidized Soviet oil. Cf. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 19.

42. Kolodko, "Recession and Growth During Transition to a Market Economy," *op. cit.*; and Kolodko and Rutkowski, "Poland's Economic Transition," *op. cit.*

43. In Czechoslovakia, Hungary, Bulgaria, Romania, and the former Soviet Union revenues appropriated from state enterprises through direct enterprise taxes, social security taxes, and product-specific indirect taxes in 1989 typically constituted 70% to 85% of all tax revenues and ranged from about 35% of GDP in the USSR to 50% of GDP in Hungary and Czechoslovakia. Cf. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, pp. 33-34. The problem is that unless the newly privatized firms are allowed to retain most of their profits, they will have difficulty growing and expansion of the market economy will be stifled, particularly in the short term because financial markets are severely underdeveloped. *Ibid.*, p. 68; Peter Gowan, "Old Medicine, New Bottles: Western Policy Towards East Central Europe," in *World Policy Journal* (Winter 1991-92), p. 11.

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has been costly in all post-communist states relative to the revenues earned.[44] For example, the privatization of large state enterprises in Poland was supposed to generate 15 million zlotys for the national treasury, but the state may actually have lost money in the process so far due, in part, to the high costs of preparing them for privatization.[45] The situation has been better in the small business sector, where the number of small entrepreneurial ventures increased dramatically since 1989 and at relatively low cost to the state.[46]

The point is that rapid privatization is not necessarily the panacea that many economists and Western advisors have suggested.[47] Ironically to the extent that privatization precipitates budget deficits and fiscal crisis, it could contribute to political instability and create obstacles to further economic reform, including more privatizations. Of course, those who advocate massive privatizations argue that it will eventually lead to more efficient firms, economic growth, profitability, and an expansion of the revenue base. However, it will probably take years for newly privatized firms to achieve efficiency and profitability. In the meantime, it is an open question whether post-communist states can afford politically to wait for the benefits of privatization.

Several other factors also contribute to revenue shortfalls. For example, the lack of domestic capital, capital markets, and a well-developed banking system will lead to an initial stage of "primitive accumulation"[48] where private entrepreneurs accumulate capital in ways that are shady, if not illegal. The sale of purposefully undervalued state assets, often to members of the nomenklatura or their cronies, is a case in point.[49] A variety of unregulated, corrupt business operations, such as

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44. *Ibid.*, p. 47.

45. Jerzy Hausner and Klaus Nielsen, "The Post-Socialist Transformation Process: Systemic Vacuum, Search Processes, Implementation Problems and Social Struggle." Unpublished paper, Center for Public Organization and Management, University of Roskilde, Copenhagen, Denmark (1992). Cf. also Weschler, *op. cit.*

46. Gary Loveman and Simon Johnson, "Towards a Theory of Economic Transformation: Small Business Development in Poland." Unpublished paper, Harvard Business School, Harvard University, Cambridge, Massachusetts (1992).

47. Kornai, *The Road to a Free Economy*, *op. cit.*

48. Hausner, "The Post-Socialist State . . .," *op. cit.*

49. Olivier Blanchard, Rudiger Dornbusch, Paul Krugman, Richard Layard, and Lawrence Summers, *Reform in Eastern Europe* (Cambridge, Mass.: Massachusetts Institute of Technology Press, 1991); Keith Crane, "Property Rights Reform: Hungarian Country Study." in Hans Blommestein and Michael Marrese, eds., *Transformation of Planned Economies: Property Rights Reform and Macroeconomic Stability* (Paris: Organization for Economic Cooperation and Development, 1991), pp. 69-94; David Ost, "Shaping a New Politics in Poland: Interests and Politics in Post-Communist East Europe."

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the infamous mafia taxis in Warsaw, have also emerged. In addition, several enormous financial scams have bilked hundreds of millions of dollars in hard currency from the state treasury (such as the notorious Art-B Boys, two charismatic young musicians who quickly transferred a single large deposit of money among several Polish banks in order to collect interest on it at high rates from all of them at once). Of course, part of the problem with these scandals and corrupt activities is that the regulatory structure is so underdeveloped that it is not always clear whether any laws are actually being broken and, if they are, there are often not enough officials to adequately enforce them.[50] More to the point, it is very difficult to monitor and tax this activity because much of it is hidden in the underground economy. To the extent that the state loses money by selling undervalued assets, being swindled, or providing services to workers who are officially unemployed but working in the underground economy, primitive accumulation actually drains state finances.[51]

The impetus for a period of primitive accumulation is exacerbated by the fact that most of the $27 billion in foreign aid that has been promised to post-Communist Europe by the IMF, World Bank, and Western governments has not arrived yet.[52] Furthermore, it is estimated that only modest amounts of investment capital will be forthcoming from the West and that most of the investment required to rebuild physical capital stocks will have to be financed internally.[53] In this regard, primitive accumulation may be beneficial in the long run insofar as it generates capital that is eventually invested in legitimate businesses that constitute the foundation of stable, revenue-generating market economies. Meanwhile, however, the transfer of economic activity from the state to the private sector by means of primitive accumulation and the expansion of the underground economy will reduce the amount of revenue that the state can collect.

Program on Central and Eastern Europe Working Paper Series, No. 8. Center for European Studies, Harvard University (1991); David Stark, "Privatization in Hungary: From Plan to Market or From Plan to Clan?" in *East European Politics and Society*, Vol. 4, No. 3 (1990), pp. 351-92; and Anna Seleny, "Property Rights in Transition: State and Private Sectors in Hungary." Paper presented at the Conference on "Dilemmas of Transition from State Socialism in East Central Europe," Center for European Studies, Harvard University (1991).

50. Owsiak, *op. cit.*; and Weschler, *op. cit.*, pp. 64-68.
51. Hausner, "The Post-Socialist State . . . ," *op. cit.*
52. "Crossing the East-West Chasm," in *The Economist op. cit.*
53. Collins and Rodrik, *Eastern Europe and the Soviet Union in the World Economy*, *op. cit.*, p. 117.

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As under socialism, another factor that will contribute to declining revenues is tax avoidance. Although many new private firms are subject to the same 40% corporate income tax as state enterprises, in Poland the *effective* rate for these private firms is undoubtedly lower because they have figured out ways to avoid or reduce their tax burden, such as by subcontracting with each other and agreeing to reduce their declared profits. Furthermore, many new Polish entrepreneurs have registered as wholesale traders, even when they are not, operate as individuals rather than companies in order to take advantage of various tax loopholes, falsify data on invoices, and stage fictitious transport of goods through customs zones to avoid customs duties, tariffs, and other taxes.[54] As a result, although about 20% of production in Poland was in private hands by early 1991, revenues from the entire private sector contributed only 5% of the state budget, and tax receipts per employee were less than 10% of those in the public sector.[55] Thus revenue declines are likely as more enterprises move from the state to the private sector, and as more new private sector firms emerge. Moreover, even if the state cracked down on new private entrepreneurs, it would drive them underground or simply discourage further entrepreneurial activity,[56] in which case it would also sap capital formation and slow the transition to a market economy.[57]

The timing of taxes has created further incentives for tax avoidance in Poland. First, firms have to pay monthly corporate income taxes on sales, even when they have not yet received payment. Because these taxes must be paid so frequently, firms often do not have enough cash. If they do, tax payments deplete cash reserves that managers might otherwise reinvest in the firm in ways that would facilitate its growth. As a result, private firms often cheat on their taxes. Second, although individuals pay income taxes on an annual basis, it often takes several months for them to receive their refunds. The government does not pay any interest on the money it owes taxpayers and does not increase refunds to compensate for the effects of inflation. Thus, during periods of high inflation, people perceive that the government is cheating them and, in turn, compensate by trying to cheat the government.[58]

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54. Loveman and Johnson, "Towards a Theory of Economic Transformation: Small Business Development in Poland," *op. cit.*; and Owsiak, *op. cit.*

55. Owsiak, *op. cit.*; and Weschler, *op. cit.*, p. 64.

56. Kornai, "The Postsocialist Transition and the State: Reflections in the Light of Hungarian Fiscal Problems," *op. cit.*, p. 13.

57. Crane, "Property Rights Reform: Hungarian Country Study," *op. cit.*, p. 79.

58. These insights were offered to me by an owner of a private firm employing about 250 employees.

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Problems of tax avoidance will be exacerbated to the extent that post-communist states do not have better accounting systems and tax administrations with modern financial skills so that state officials can clearly define, identify, and collect taxable income. This has been a major factor contributing to the loss of revenue from customs and tariffs in Poland.[59] Of course, the increasingly limited capacity of the state to collect taxes under post-communism is itself a product of economic reform insofar as private economic activity will be further removed from the state and, therefore, more difficult to monitor and tax than it was under the old system, at least until a new revenue collecting apparatus is built.[60] For example, much new private economic activity has been cash-based and conducted independently of banks.[61]

Leaving aside the possibility of developing new revenue sources, and assuming that post-communist states do not decide to retain some of their profitable enterprises in order to generate revenue, states can either print or borrow money to cover expenditures. However, printing money stimulates inflation and undermines currency values, while borrowing increases budget deficits. Both encourage the wrath of Western creditors who insist on low inflation, currency stabilization, and balanced budgets as a *quid pro quo* for providing foreign aid.[62] In addition, borrowing is especially difficult because the banking systems and domestic capital markets in these countries are underdeveloped.[63] For instance, although the Polish government tried to sell 5 billion zloty worth of long-term bonds in 1989, by 1991 only about 3% had been sold because there was no secondary capital market for these securities and because investors were reluctant to tie up their assets for several years at low yields.[64] Nevertheless, although these options may temporarily span the gap between expenditures and revenues, neither helps eliminate it.

Altogether the problems of declining revenues make it increasingly difficult for post-communist states to meet their fiscal responsibilities. For this reason, the budget deficits of post-communist states may consti-

59. Owsiak, *op. cit.*

60. Hans J. Blommestein, Michael Marrese and Salvatore Zecchini, "Centrally Planned Economies in Transition: An Introductory Overview of Selected Issues and Strategies," in Hans Blommestein and Michael Marrese, eds., *Transformation of Planned Economies, op. cit.*, p. 19.

61. Crane, "Property Rights Reform: Hungarian Country Study," *op. cit.*, p. 89.

62. "Eastern Europe Hesitates," in *The Economist* (May 16, 1992), pp. 13-14.

63. Owsiak, *op. cit.*

64. Czarny and Czarny, "From the Plan to the Market: The Polish Experience," *op. cit.*, p. 14.

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tute real fiscal crises.[65] Moreover, these crises are of a *qualitatively different* type than those experienced by either capitalist or socialist states insofar as they are due fundamentally to a tendency for revenues to decline faster than expenditures rather than for expenditures to rise faster than revenues. As a result, a search for new revenue sources has begun.[66]

Managing Fiscal Crises

The extent to which post-communist states experience revenue shortages depends partly on policy choices. For example, in order to make up for a precipitous decline in trade with other Soviet bloc countries, Polish officials liberalized trade with the West in 1990. However, because they did this without imposing high tariffs, Western goods flooded in without producing much tax revenue.[67] Furthermore, imports threatened the survival of many domestic producers who could not compete on either a quality or cost basis with Western firms that enjoyed substantial economies of scale.[68] Many state enterprises were forced to reduce production and could not pay their taxes. As a result, by 1992 they owed 23 billion zloty in back taxes.[69] Thus, although it may have been imperative to open the economy to foreign trade, this was done in a way that provided little relief for the state's revenue problems, either by collecting tariffs or protecting domestic businesses so they could compete more effectively and generate taxable profits. Alternatively, the government could have pursued a more protectionist approach to generate more revenue from trade and provide domestic enterprises with help competing against imports.[70]

Similarly, the imposition of high interest rates in Poland to check inflation was a policy decision that exacerbated considerably the inability of state enterprises to generate taxable revenue. Ironically, those enterprises that were the most aggressive modernizers, borrowing to invest in new technology and production capacity, had to absorb steep interest payments as rates rose. They often went into debt as a result. Firms also invested in deposit accounts which were safer and perhaps more profitable

65. Hausner, "The Post-Socialist State in the Process of Systemic Transformation," *op. cit.*, pp. 28-29; and Hinds, "Strategies for Marketization," *op. cit.*, p. 8.

66. Owsiak, *op. cit.*, p. 26.

67. Hausner, "The Post-Socialist State . . . ," *op. cit.*, p. 14.

68. Jerzy Hausner, "The Financial Crisis of the State," unpublished paper, Cracow Academy of Economics, Cracow, Poland (1992); Hinds, "Strategies for Marketization," *op. cit.*; and Weschler, *op. cit.*

69. Owsiak, *op. cit.*, p. 26.

70. Hinds, "Strategies for Marketization," *op. cit.*

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in the short-term than in new capacity that would have spawned more revenue in the long-term.[71]

Whether protectionism and lower interest rates were realistic options, given the pressures exerted by the IMF and other creditors is another matter. Indeed, Poland recently raised tariffs on agricultural products as part of a strategy for gaining access to West European markets.[72] Nevertheless, the point is that domestic policy decisions, such as these, will depend to a large extent on the constellation of *political* and *economic* constraints. Although the possibility of developing other types of taxes to make up for lost revenue has been widely discussed throughout Eastern Europe,[73] the ability to successfully impose these taxes during the period of reform seems to be severely limited. The examples of the excess wage tax and the corporate income tax in Poland illustrate the point.

Political Constraints on Taxing Wage Increases

In addition to budget deficits, an inflation rate of 580% in 1990, attributed largely to increases in nominal wages, caused political elites in Poland to search for ways to control wage escalation during the initial period of economic reform.[74] As a result, the government introduced a Tax on Supplementary Wage Increases (the so-called "*popiwek*"), that pegged wage increases to the rate of inflation and imposed a highly progressive tax on firms or enterprises that granted wage increases above the permitted level. In effect, this was an indirect tax on individual wages because it was designed to minimize wage gains relative to what they would have been otherwise. The idea was to restrict aggregate demand and thus inflation, by keeping wages down.[75]

Private firms complained bitterly about the tax and, although most workers initially supported it, political elites revised the *popiwek*.[76] By late 1990 it applied primarily to state enterprises. In order to speed up privatization, and presumably to create incentives for increasing worker

71. Hausner, "The Financial Crisis of the State," *op. cit.*

72. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 41.

73. Czarny and Czarny, "From the Plan to the Market: The Polish Experience," *op. cit.*; and Kornai, *The Road to a Free Economy*, *op. cit.*

74. Kolodko and Rutkowski, "Poland's Economic Transition," *op. cit.*

75. Jerzy Hausner, "The Formation of a System for the Representation of Interests," in Jerzy Hausner, ed., *In Systemic Vacuum? Dilemmas of the Transformation Process* (Cracow: Cracow Academy of Economics, 1991), pp. 31-42; and Krzystof Kalicki, "Monetary Policy in a Period of Economic Transformation," Economic and Social Policy Series Paper No. 5 (Friedrich-Ebert Foundation, Warsaw, 1991), p. 13.

76. Loveman and Johnson, "Towards a Theory of Economic Transformation: Small Business Development in Poland," *op. cit.*, p. 9.

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productivity, privatized companies were granted an exemption from the tax. Workers in state enterprises objected on the grounds that this change discriminated against them, contributed to their declining standard of living during the recession, and sapped their motivation for hard work. Ultimately, strikes and other protests broke out over the issue in mining, energy, public transportation, and other economic sectors. Strikers usually won wage increases, although not as much as they wanted. Pressure continued to mount to further gut and even eliminate the tax. As a result, the government modified the *popiwek* for 1991 by allowing firms with favorable profit-to-wage ratios to give additional pay increases, by granting full exemptions only to firms where a foreign partner had a majority stake, and by reducing the tax for firms where the state had a 50% or more shareholding.[77] In addition to eroding one of the state's few means of controlling wage escalation and collecting revenue,[78] these revisions illustrate the political difficulties governments face in trying to impose new taxes during the period of reform, particularly when they cut into individual income.

High levels of labor organization often lead to higher individual and corporate income taxes in the West, especially when there is a labor or social democratic party in power.[79] However, labor generally agrees to higher individual income taxes in exchange for more spending on social benefits.[80] Thus, it makes sense that resistance to the *popiwek* materialized in Poland not just when real wages were declining, but also when the government was slashing spending for many basic services to which citizens had become accustomed under the old regime.[81] Moreover, it is doubtful that such an exchange of taxes for social spending can be worked out in post-Communist Poland, at least for the time being,

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77. Czarny and Czarny, "From the Plan to the Market," *op. cit.*, p. 31.

78. Zbignew Dresler, "The Enterprise as a Field for the Conflict of Interests in the Process of Systemic Transformation," in Jerzy Hausner, ed., *System of Interest Representation in Poland*, (Cracow: Cracow Academy of Economics, 1991), pp. 11-26; and Hausner, "The Formation of a System for the Representation of Interests," *op. cit.*

79. David R. Cameron, "The Expansion of the Public Economy: A Comparative Analysis," in *American Political Science Review*, Vol. 72, No. 4 (1978), pp. 1243-61; and Arnold Heidenheimer, Hugh Heclo and Carolyn Adams, *Comparative Public Policy: The Politics of Social Choice in Europe and America* (New York: St. Martin's Press, 1983).

80. David R. Cameron, "Does Government Cause Inflation? Taxes, Spending, and Deficits," in Leon N. Lindberg and Charles Maier, eds., *The Politics of Inflation and Economic Stagnation* (Washington, D.C.: Brookings Institution, 1985), pp. 224-279; and Alan Lamborn, "Power and the Politics of Extraction," in *International Studies Quarterly*, Vol. 27, No. 2 (1983), pp. 125-46.

81. Dresler, "The Enterprise as a Field for the Conflict of Interests in the Process of Systemic Transformation," *op. cit.*

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given the severe fiscal and other constraints that currently impinge on the provision of social programs.[82]

So-called hidden or indirect taxes, such as value added taxes and sales taxes, may be a good way for post-communist states to shore up their deteriorating revenue bases because taxpayers are often less aware of and therefore less resistant to paying indirect taxes than direct taxes, such as income taxes.[83] However, indirect taxes often require rather extensive tax collecting administrations, which post-Communist states have not yet developed.[84] Moreover, the fact that much private economic activity is underground makes it even harder for the state to collect indirect taxes where, for example, it has to depend on employers to collect social security taxes through withholding provisions, and requires businesses to collect sales and value added taxes. Such systems where the state relies on private intermediaries to collect taxes on its behalf, would be difficult to implement insofar as many of these intermediaries are trying to avoid detection by the state at the beginning of reform.

Constraints on Taxing Corporate Income

Given that the sale of state assets is a primary component of the fiscal crisis, one might argue that revenues lost through these sales should be regained by taxing private corporate income. As privatization proceeds, however, post-communist states will become more dependent on private capital investment to sustain economic growth and employment. In Western states imposing heavy taxes on corporate income runs the risk of capital disinvestment and economic contraction.[85] The same will probably happen in post-communist states during the period of reform.[86] Not only will this reduce revenues in the

82. Claus Offe, "Political Pluralism and Efficiency of the Program of Systemic Transformation." Paper presented at the Seminar on "Transformation Processes in Eastern Europe — Challenges for Socio-Economic Theory," Cracow Academy of Economics, Cracow, Poland (1992).

83. Block, *op. cit.*

84. Carmenza Gallo, *Taxes and State Power: Political Instability in Bolivia, 1900-1950* (Philadelphia: Temple University Press,1991), Chap. 7.

85. Fred Block, "Beyond Relative Autonomy: State Managers as Historical Subjects," in Ralph Miliband and John Saville eds., *The Socialist Register* (London: The Merlin Press, 1980), pp. 227-40; and John L. Campbell and Michael Patrick Allen, "The Political Economy of Revenue Extraction in the Modern State: Time-Series Analysis of U.S. Income Taxes, 1916-1986," unpublished manuscript, Department of Sociology, Harvard University, 1992. Cf. also Charles Lindblom, *Politics and Markets* (New York: Basic Books, 1977).

86. Kolodko and Gotz-Kozierkiewicz, "Fiscal Adjustment and Stabilization Policies in Eastern Europe," *op. cit.*

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long run, but it could create further political instability by contributing to unemployment. Indeed, support for economic reform among Polish citizens, particularly the less educated,[87] has already declined due to the inflation, unemployment, and declining real wages.[88]

Ironically, the ability to tax capital may be more limited in post-communist states than it is in the West because they will have to depend heavily on *foreign* capital investment. Altogether, Poland, Czechoslovakia, Hungary, Romania, and Bulgaria will need between $70 billion and $226 billion annually in foreign investment over the next 10 years, depending on their level of domestic savings and labor productivity.[89] It is clear that many state enterprises which will be privatized will end up being owned, at least in part, by foreigners. After all, assets of Polish state enterprises targeted for privatization are estimated to be worth from $50 billion to $100 billion, but domestic savings available for purchasing these firms amount to only $7 billion.[90] Thus, the Polish government has already adopted lenient joint venture regulations to attract foreign capital.[91] So has Hungary, by granting tax holidays for many foreign investors.[92] As a result, both countries initially developed several hundred more East-West joint ventures than the rest of their post-Communist neighbors combined.[93]

Relying on foreign capital results in two problems. First, much Western capital is still waiting for the political and economic situation to stabilize before investing in post-communist countries.[94] This creates a situation where post-communist governments must create especially

87. Jan Jerschina and Jaroslaw Gorniak. "Social Consciousness and Transformation of Post-Communism in Poland." Paper presented at the Second Conference on "The Negotiated Economy versus Neoliberalism as an Institutional Framework for a Market Economy: Implications for PostSocialism." Copenhagen Business School, Copenhagen, Denmark (1991).

88. Jerzy Indraszkiewicz, "The Formation of Economic Consciousness," in *In Systemic Vacuum? Dilemmas of the Transformation Process*, *op. cit.* pp. 31-42; and Kolodko and Rutkowski, "Poland's Economic Transition," *op. cit.*

89. *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 70.

90. Stanislaw Rudolf, "Economic and Social Aspects of Privatization in Poland," unpublished manuscript, University of Lodz, Poland (1991).

91. Anthony Robinson, "Czechs Hang 'For Sale' Sign on 50 of Republic's Key Companies," *in Financial Times* (June 14, 1991), p. 2.

92. Seleny, "Property Rights in Transition: State and Private Sectors in Hungary," *op. cit.*; and Crane, "Property Rights Reform: Hungarian Country Study," *op. cit.*

93. U.S. General Accounting Office, *Eastern Europe: Donor Assistance and Reform Efforts*. GAO/NSIAD-91-21 (Gaithersburg, MD: U.S. General Accounting Office. 1990).

94. Collins and Rodrik, *Eastern Europe and the Soviet Union in the World Economy*, *op. cit.*, pp. 141-49; and *Reforming the Economies of Central and Eastern Europe*, *op. cit.*, p. 55.

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favorable investment climates in order to attract foreign capital. In part, this entails offering low tax rates.[95] Moreover, the need for post-communist governments to enter into joint ventures could precipitate a bidding war among these governments for foreign investment capital in which each government offered the lowest tax rates possible (or longest tax exemptions), as well as other concessions, to prospective investors. In turn, this would further restrict the development of the revenue base in each country, thereby increasing the probability of fiscal crisis throughout the region. Although this problem could be avoided if these states agreed not to compete in this way,[96] such deal-making with individual firms and international lending agencies has already created nationalist hostility in the region.[97] These practices, which are common at the state government level in the US[98] and at the national level in Western Europe,[99] will probably make it even more difficult to raise revenue through corporate taxes. Inter-governmental competition for capital may be even worse at the level of local government in countries such as Poland, where pressure to tax capital is growing and where local governments are not collectively organized so as to produce uniform tax codes across localities.[100]

The second problem with relying on foreign capital is the threat of capital flight. Even after investments have been made, the geographic mobility of foreign capital means that it can leave at any time. Western

95. Czechoslovakia granted a variety of tax breaks to firms owned, at least in part, by foreigners. The strategy seems to have worked insofar as foreigners have invested over $5 billion in Czechoslovakia so far. Of course, this has generated an additional problem: nationalist concerns over allowing foreigners to gain control over the economy — concerns that have helped fuel the rift between the Czech Lands and Slovakia. Cf. Roger Cohen, "Czechoslovakia's Wall Street Brigade." *The New York Times* (June 21, 1992) Section 3, p. 1.

96. Bob Jessop, "Notes on the Economic Functions of the State in the Transformation and the Future System." Paper presented at the Second Conference on "The Negotiated Economy versus Neo-liberalism as an Institutional Framework for a Market Economy: Implications for Postsocialism." Copenhagen Business School, Copenhagen Denmark (1991).

97. Peter Gowan, *op. cit.*

98. Robert Kuttner, *Revolt of the Haves; Tax Rebellions and Hard Times* (New York: Simon and Schuster, 1980), Chap. 10.

99. Victor Pestoff, "The Demise of the Swedish Model and the Rise of Organized Business as a Major Political Actor." Paper presented at the annual conference of the Society for the Advancement of Socio-Economics, Stockholm, Sweden (1991), p. 33.

100. John L. Campbell, "Property Rights and Governance Transformations in Eastern Europe and the United States," in Sven-Erik Sjostrand, ed., *Institutional Evolution and Change* (New York: Sharpe, forthcoming); Janusz Fiszer, "Financing Local Government in Poland," Economic and Social Policy Series Paper No. 10, Friedrich-Ebert Foundation, Warsaw (1991).

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countries, including the US, also experience the problem of capital flight — even by domestically based firms.[101] The speed with which several Western investors withdrew their capital from Hungary in 1990 simply because the Democratic Forum rose to power and appeared hostile to a rapid change to free-market capitalism illustrates how mobile foreign capital is in the post-communist context.[102] The imposition of heavy corporate income taxes, perhaps an even more direct challenge to capitalist property rights than the installation of a government preferring a gradualist reform strategy, may elicit similar responses.[103] Because post-communist states will become increasingly dependent on private capital investment, corporate income taxes are not likely to yield enough revenue to compensate for revenues lost through the privatization of state assets. This situation is exacerbated by the fact that post-communist states must attract foreign capital, and need to compete against each other to do so.

Thus, political elites in post-communist states are likely to be caught increasingly in a bind. On one side, they must contend with the erosion of the traditional revenue base; on the other, they face stiff political and economic constraints that mitigate against the development of new revenue sources. To the extent that political elites can negotiate effectively with workers, investors, and other social groups, it may be easier for them to develop a new revenue base than to prevent the old one from disintegrating. Nevertheless, pressures to raise taxes to mitigate fiscal crises conflict with other pressures to lower taxes. This is especially clear in the case of the *popiwek* where the government adopted the tax to control inflation and win foreign credits necessary for promoting capitalism, but later backed off in order to maintain popular support and social harmony. More generally, this indicates a tension in post-communist states between trying to promote economic stability and capitalism, on the one hand, and to preserve political legitimacy in

101. Barry Bluestone and Bennett Harrison, *The Deindustrialization of America* (New York: Basic Books, 1982).

102. Gowan, "Old Medicine, New Bottles. . . ," *op. cit.*, p. 6.

103. In Poland the small private business sector has expanded rapidly despite heavy taxation. See Loveman and Johnson, "Towards a Theory of Economic Transformation. . . ," *op. cit.* Most of this activity, however, did not involve foreign capital. Furthermore, the effective tax rate on private firms is lower than that on state enterprises, partly because of the ability of private firms to avoid paying taxes. Presumably, when the state develops a more efficient tax collection apparatus this will change and corporate taxation will become more of a factor in investment decision-making. Finally, it is not yet clear what impact taxation will have on the activities of larger firms, which account for most of Poland's economic activity and which have yet to be privatized.

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newly formed democracies, on the other — a tension also present in advanced capitalist countries.[104]

An Institutional Conclusion

Advanced capitalist states faced some of the same problems, although not of the same magnitude, during the 1970s and early 1980s that Poland and other post-communist states face today. Inflation and economic stagnation were particularly serious[105] and were often said to reflect underlying tensions between capitalism and democracy.[106] In many ways, these problems resembled those of post-communist "slumpflation."[107] The Western states that managed these problems most successfully were often those with neocorporatist institutions.[108] Furthermore, states where labor was well organized and integrated firmly into systems of neocorporatist interest representation, and where leftist parties were often in power tended to have the highest rates of revenue extraction, especially through personal income taxes, the least strike activity, and, most important, the smallest budget deficits.[109] Similarly, raising taxes proved to be a more effective way to reduce deficits than cutting expenditures.[110] In short, states with leftist governments and neocorporatist institutional arrangements, such as Sweden, were less likely to encounter fiscal crises, not to mention inflation, economic stagnation, and unemployment, than states that better fit the neoliberal model, such as the US.

Insofar as labor is well organized and actively engaged with the state in serious policy dialogue, as it has been in Poland, some neocorporatist

104. Joshua Cohen, and Joel Rogers, *On Democracy* (New York: Penguin, 1983), Chap. 3; O'Connor, *op. cit.*

105. Lindberg and Maier, eds., *The Politics of Inflation and Economic Stagnation*, *op. cit.*

106. John H. Goldthorpe, *Order and Conflict in Contemporary Capitalism* (Oxford: Clarendon Press, 1984); Bob Jessop, "Capitalism and Democracy: The Best Possible Shell?" in Gary Littlejohn, Barry Smart, John Wakeford, and Nira Yuval-Davis eds., *Power and the State* (London: Croom Helm, 1978), pp. 10-51; Philippe C. Schmitter, "Interest Intermediation and Regime Governability in Contemporary Western Europe and North America," in Suzanne Berger, ed., *Organizing Interests in Western Europe* (New York: Cambridge University Press, 1981) pp. 287-330.

107. Kolodko, "Recession and Growth. . . ," *op. cit.*

108. Leon N. Lindberg, "Models of the Inflatiron-Disinflation Process," in Lindberg and Maier, eds., *op. cit*pp. 25-50.

109. Cameron, "The Expansion . . ." *op. cit.*, and "Does Government . . . " *op. cit.*,; Michael Goldfield, *The Decline of Organized Labor in the United States* (Chicago: University of Chicago Press, 1987); and Douglas Hibbs, "On the Political Economy of Long-Run Strike Trends," in *The Political Economy of Industrial Democracies* (Cambridge, MA: Harvard University Press, 1987), pp. 52-76.

110. Cameron, "Does Government . . . ," *op. cit.*, p. 259.

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institutions are already present.[111] Obviously, labor can benefit from such an arrangement by gaining some leverage over policy making. However, given the experience of advanced capitalist countries during stagflation, the emergent business community could also gain from the further development of these institutions, particularly insofar as controlling inflation and avoiding strikes is concerned. Most significantly, the state could win by having an easier time raising taxes to reduce budget deficits. Thus, for purposes of preserving political legitimacy and harmony, and promoting capital accumulation and economic development, it may be in the interests of all concerned to pursue the further development of these institutional arrangements. Of course, conflicts among trade unions, contradictory demands emanating from within the Solidarity union itself, the lack of appropriate forms of representation among employers, and instability within the government present formidable barriers to such development.[112] Nevertheless, it is ironic, that many of the most powerful actors who are pushing Poland and other post-communist states to control budget deficits, inflation, and other macroeconomic problems are also the ones who oppose the further development of neocorporatism and favor more neoliberal approaches.[113] In any case, one can only hope that the strategies adopted by post-communist states to manage their budget problems are effective enough to avoid the kind of fiscal crisis and political backlash that could lead to more authoritarian outcomes.

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111. Hausner, "The Formation of a System . . . ," *op. cit.*; David Ost, *Solidarity and Politics*, *op. cit.*

112. Jerzy Hausner, "Relationships Between Economy and Policy," in Jerzy Hausner, ed., *In Systemic Vacuum? Dilemmas of the Transformation Process* (Cracow Academy of Economics, 1991); and Hausner and Nielsen, *op. cit.*

113. Hausner, "The Formation of a System . . . ," *op. cit.*

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The Crisis of the Italian Party-State and the Rise of the Lombard League

Dwayne Woods

Bossi's Lombard League (the Lombard League is the main component of the Northern League — the others are the Venetian League and the Autonomous Piedmont League) appeared on the political scene in 1985 garnering only 2.5 % of the votes. By 1991, however, the movement had won over 17% of the votes in regional elections in Lombardy and 25.8 % in Brescia, a traditional stronghold of the Christian Democratic Party. In the April 1992 national elections, the Lombard League emerged as the third largest party in Italy with nearly 9% of the popular vote and 55 elected members in Parliament. At the same time, the Christian Democrats lost nearly 6% of their support, a sharp drop from the 1987 national elections. In recent local elections, the League's success has been even more dramatic.[1]

What these unexpected electoral successes indicate is the depth of the crisis of the party system in place in Italy since the end of WWII. The crisis, however, is not limited to political representation by parties which have become dysfunctional and corrupt. It also extends to the historical project of creating a centralized nation-state. In attempting to subsume all local particularities, community specificity and regional differences within a unified nation, the state has tended to reduce everyone to the level of abstract citizens.[2] This abstraction, however, was premised on an

1. In Mantova, Monza, and Varese, the Lombard League obtained more than 35% of the vote, making it the largest political force in these areas. See David A. Caputo, "Italy's Parliamentary Elections: New Directions or Only Minor Deviations from the Past?" in *Italian Journal*, Vol. VI, No. 2 & 3 (April 56, 1992).

2. Paul Piccone, "Federal Populism in Italy," in *Telos* 90 (Winter 1991-92), p. 5.

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ideological contradiction of liberalism. According to Hueglin: "liberalism sets individuals free from the constraints of traditional institutions and communities such as religion, ethnicity, and region. This is not only wishful thinking, but a blatant disregard of the contradictions on which liberal democracy and the welfare state are based. Postulating a general decline of the older group and conflict patterns in the age of consensus and affluence, liberalism tended to ignore that it depended on 'stable patterns' of local, ethnic, religious, or class relationships, and that the present crisis of overload and ungovernability must probably be seen as a result of the liberal success in destroying these stabilizing relationships."[3]

The modern nation-state has attempted to escape this contradiction in two ways. On the one hand, liberals have sought to salvage the legitimacy of the nation-state by further rationalizing the state's relation with society. Embedded in this strategy is the belief that the dysfunctions of the nation-state are to be found in the uneven or distorted unfolding of modernity, and not in modernity itself. On the other hand, conservatives have attempted to overcome the crisis by reemphasizing the putative efficacy of decentralization, reprivatization, and by limiting state intervention.[4]

The "malaise" of the modern nation-state is probably more severe in Italy than elsewhere in Europe because the subsuming of local and regional identities under a centralized bureaucratic state was only partially successful. Political parties succeeded in holding the fragile Italian nation-state together because they benefited from the freezing effect of the Cold War and their ability to insert themselves within relatively stable political and social sub-cultures. Today none of these conditions prevail any more.

The Crisis of the Italian Party System

Two factors account for the spread of regional Leagues in Northern Italy: changes resulting from post-war economic modernization and the inability of political parties to effectively deal with crises. For much of the post war period, political parties in Italy have resisted fudamental reform, eventually precipitating a crisis in which new forces have emerged, promising to bring about significant structural changes. What started out as a process of integrating a segmented society into stable political relations articulated through political parties, became frozen into a structured framework in which political parties permeate every institution. Regional and local interests were mediated through political parties in such a

3. Thomas 0. Hueglin, "Regionalism in Western Europe: Conceptual Problems of a New Political Perspective," in *Comparative Politics*, Vol. 19, No. 4. (July 1986).

4. See Alain Bihr, "Malaise dans I'Etat-nation," in *Le Monde Diplomatique* (Février 1992), p. 7.

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way that the "party became partly an ideological tissue around clientelistic linkages and partly an instrument for the insinuation of broader policy concerns into the allocation of benefits to the grassroots."[5] Mediation was possible because the center was linked to the periphery through a variety of intermediary organizations connected to the parties.

The Italian party elite created a multifaceted system of governance blending clientelism, redistributive politics and ideological appeal to a disparate constituency. Christian Democrats utilized each of these elements in their effort in the 1950s to become first a mass party and, subsequently, a catch-all party. Other parties, notably the Socialist Party, have copied the Christian Democrats's strategy of ideological mobilization and particularistic cooptation.

Changes in Italian society, however, have undermined the effectiveness of the post-war center-periphery linkages. The economic modernization of Northern and Central Italy has resulted in the development of a more complex and differentiated society. Throughout the 1960s and 1970s, the Italian socio-economic landscape has changed significantly as a rich and integrated economy has developed in the Northern half of the country. The socio-economic transformation has led to a substantial decline in the country's rural population.[6] This transformation has resulted in a more mobile society without, however, undermining the importance of small and medium sized towns as the loci of economic activity and cultural identity.[7] While political and administrative power was increasingly concentrated in the political parties at the national level, local communities remained crucial in the constitution of cultural identity.[8] Political parties drew their legitimacy and many of their militants from these communities. In fact, parties emerged as the main intermediating institutions between local and national interests. The role of small urban communities was enhanced as they became the centers of small and medium sized export-led industries that flourished despite the consolidation of economic power by large private and publicly owned companies.

While large cities such as Milan and Turin developed a sizeable working class, smaller cities such as Bergamo and Brescia strengthened the economic position of the Italian middle class. As Lombardy and Tuscany

5. Sidney Tarrow, *Between Center and Periphery: Grassroots Politicians in Italy and France* (New Haven: Yale University Press 1977), p. 175. See also Sidney Tarrow et al., eds., *Territorial Politics in Industrial Nations* (New York: Praeger, 1978).

6. Napoleone Colajanni, *L'Economia Italiana dal Dopoguerra a Oggi* (Milan: Sperling & Kupfer Editori, 1990).

7. Raffaele Romanelli, "Le Radici Storiche del Localismo Italiano," in *Il Mulino*, No. 4 (Luglio/Agosto 1991), pp. 711-720.

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became richer and more integrated with the rest of Europe, the political center grew increasingly distant and dysfunctional.[9] By the 1980s, modernization in Northern and Central Italy had outstripped political development, gradually undermining the effectiveness of the party-dominated state.[10] As long as Italy was locked into the static Cold War system, however, these changes remained marginal. With the end of the Cold War, the gap between the party system — the *Partitocrazia* — and society has revealed itself with the sudden rise of regional movements.

The collapse of communism in the East has sapped the party's legitimacy, especially the major ones. The Christian Democratic Party has lost its traditional centrist appeal as a bulwark against communism, while the former Communist Party has ceased to be a viable alternative to the long gone Communist systems in the East. Parties are now seen as political bodies resisting radical reform in the political system in the same way that the Communist Nomenclature in the former Soviet Union are attempting to block reforms. Moreover, corruption and mismanagement of public resources by the Christian Democratics have further eroded the party's legitimacy. In Northern Italy, which has developed a modern capitalist economy with standards of living comparable to other Western nations, Christian Democrats have lost control over their traditional political sub-culture of Catholics and the conservative middle class. Thus, the inefficiency of the post-war party system has led to diminishing electoral returns for parties in areas where clientelistic distributional politics have become increasingly irrational. LaPalombara's argument that Italian parties have not performed badly in their governance of post-war Italy's economic development misses the point.[11] While it is true that Italy is the world's fifth-largest economy, it is also the only modern economy where many basic services resemble those of developing Third World countries. Not only are public goods unevenly distributed between groups and regions, they are also badly mismanaged. Italy spends more per capita on rail transporation than any other Western European nation, yet it has one of the most inefficient railways in Europe. The same can be said for health care and educational services. There is almost an inverse

8. Roberto Cartocci, "La Risposta Politica Locale," in *Il Mulino*, No. 4 (Luglio/Agosto 1991), pp. 721-732.

9. Raffaella Y. Nanetti, *Growth and Territorial Politics: The Italian Model of Social Capitalism* (New York: Printer Press, 1988); Giorgio Bocca, *La Disunità d'Italia: Per Venti Millioni di Italiani la Democrazia è in Coma e l'Europa si Allontana* (Milan: Garzanti, 1990).

10. Paolo Farneti, *The Italian Party System. 1945-1980* (New York: St. Martin's Press 1985), pp. 132-4. Carlo Donolo, "Social Change and Transformation of the State in Italy," in Richard Scase ed., *The State in Western Europe* (New York: St. Martin's Press, 1980).

11. Joseph LaPalombara, *Democracy Italian Style* (New Haven.: Yale University Press 1987).

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correlation between the level of expenditures on social services and the quality of services provided. This predicament is directly connected to the corrupting role of Italian political parties.

The corruption scandals concerning bribes connected with public work contracts — *tangentopoli* — shows the parties' pervasive impact. What is interesting here is that it has come to the surface. In the past, party leaders would have put pressure on the judiciary to either drag its feet or ignore evidence of widespread misuse of public offices and resources. The fact that key Christian Democratic leaders and Bettino Craxi, leader of the Socialist Party, have been indicted in Milan, a city previously dominated by the Socialists, indicates the extent to which the grip political parties have had over other institutions is disappearing. The allocation of public offices to party supporters — *lotizzazione* — is under attack by both the public and the judiciary. Both the Christian Democrats and the Socialist Parties are also under attack from reformers. Mario Segni has taken the lead in trying to change Italy's electoral rules of proportional representation that perpetuate the "spoil system." In Sicily, Leoluca Orlanda, a former Christian Democrat, has created a popular movement, *La Rete* (Network), that is attempting to overhaul the party-system from the outside. Orlanda argues that democracy is only possible in Italy if the post-war party system is completely destroyed.[12]

Thus, the emergence of regionalism and localism is a protest against the *Partitocrazia*. The crisis of the Italian party-state has undermined the belief that modernization rationalizes traditional socioeconomic structures. Most Italians see the state and political parties not as agents of modernity, but the main cause for the poor functioning of public services and the pervasive corruption. Pressure on an overloaded welfare state and persistent patterns of regional inequalities have underscored the need for more localized responsibility.

The rapid success of the League in Northern Italy is due to the inability of the Italian Party system to maintain its hegemony within such a context. The end of the Cold War and the European community's escalation of demands on the Italian government to rationalize its bureaucracy and bring its budget deficit under control has rendered the post-war pattern of center-periphery integration obsolete.[13] The fact that regional movements have arisen in different places and at different times in Western

12. For an excellent analysis of how the system of party corruption worked in Milan and Rome, see *L'Espresso* (January 17, 1993), pp. 35-45. For a detailed discussion of the reformist movements within the Christian Democratic and Socialist Parties, see *Panorama* (October 25, 1992), pp. 44-51.

13. Bocca, *op. cit.*

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Europe suggests that objective conditions are not sufficient to explain the rise of these regional movements[14] In other words, structural change only creates the objective potential for movements and cannot overcome the personal inertia nor develop the networks and solidarities necessary to mount group action.[15] The way in which regimes have dealt with socioeconomic crises and the ability of new movements to articulate a populist ideology of regionalism as a viable alternative to the deficiences of the Italian party-state is also decisive.[16]

What is Populism?

The concept of populism helps understand how "new identities are constituted." Ionescu and Gellner define it as "any movement and political formation that is characterized by an ideological referent to the 'people' as an homogenous entity with exclusive positive and permanent values."[17] More broadly, populism is a transversal political philosophy defying traditional ideological dichotomies such as working class/bourgeoisie and Left/Right. At the same time, however, populism's core identity derives from a juxaposition between "us and them" and "right and wrong." Cosmopolitan capitalism and bureaucratic elites are seen as a threat to the "people," i.e., as foreign elements who do not understand their real needs and interests.[18] Historically, populism presents itself as mass movements seeking to recreate a lost "authenticity" against the centralized bureaucratic rationality of the modern nation-state.

Contemporary populism, however, is different from the rural populism of the late 19th and early 20th centuries. Historically, populist movements arose in reaction to a variety of different crises. In the latter part of the 19th century, ". . . in the American South and Midwest, agrarian populism was triggered by the draconian deflationary fiscal policies instituted after the Civil War and their devastating consequences on farmers. Opposed primarily to capitalist and industrial exploitation, it

14. Hueglin, *op. cit.*, p. 447.
15. *Ibid*, p. 439.
16. There is now a vast literature on protest movements. Much of it, however, is overly abstract. See Charles Tilly, *From Mobilization to Revolution* (Reading, MA: Addison-Wesley, 1983). See also Sidney Tarrow, *Democracy and Disorder: Protest and Politics in Italy. 1965-1975* (Oxford: Clarendon Press, 1989).
17. Ghita Ionescu and Ernest Gellner, eds., *Populism: Its Meaning and National Character* (London: Wedenfeld and Nicolson, 1970). For a broader and more insightful interpretation of populism, see Lawrence Goodwyn, "Rethinking 'Populism': Paradoxes of Historiography and Democracy," in *Telos* 88 (Summer 1991), pp. 37-57.
18. Peter Worsley, "The Concept of Populism," in Ionescu and Gellner, *op. cit.*, p. 226. Cf. also Goodwyn, *op. cit.*

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called for strict government regulation of banking and industry and for easier credit terms. In Russia, on the other hand, populism sought a return to ethnic, religious and local traditions as the bases of a new order to avoid the tribulations of Western capitalist development."[19] The populism sweeping cities such as Bergamo and Brescia is not a reaction to modernization. Rather, it seeks to redefine modernity away from centralized forms of political and economic representation and towards local and regional entities, which populists see as more effective than centralized decision-making institutions. Within modern populist movements, the putative virtues of the "lifeworld," community, tradition and identity, are reconceptualized as essential for the efficient functioning of modern societies. In other words, the regional populism in Italy is seeking to vindicate traditions and customs against centralized political institutions that have lost touch with their constituencies and whose colonization of the "lifeworld" threatens their integrity.

Italian Regional Populism

In claiming to represent long-standing local and regional identities however, post-modern populist movements also create them. As Hueglin notes, "the importance and authencity of Western European regionalism must . . . be seen in the context of the increasing fragmentation of highly complex industrial democracies." The constitution of regionalism, therefore, "does not lie in its claims of historical identity, but in the creation of new identities challenging the centralized system of governance and administration."[20] Thus, the League's success is predicated on an activism rooted primarily in newly forged cultural identities rather than old ones. Unlike some regional movements in Europe which can legitimately claim to represent distinct ethnic and linguistic groups, the Lombard League does not represent a Lombard "ethnic identity." The League's electoral successes are not dependent on its organizational ability to mobilize a distinct ethnic and linguistic group, but on its ability to *constitute* a regional identity.

Following the 1992 parliamentary elections, survey data confirmed that regional identity had only marginal significance for most Lombard

19. Paul Piccone, "The Emergence of Federal Populism," in *Telos* 89 (Fall 1991), p. 23. Lawrence Goodwyn, *Democratic Promise: The Populist Movement in America* (New York: Oxford University Press, 1976); Norman Pollack, *The Just Polity: Populism. Law and Human Welfare* (Urbana: University of Illinois Press, 1987).

20. On invented identities, see Anthony Smith, "The Nation Invented, Imagined, Reconstructed," in *Millennium*, Vol. 20, No. 3. (Winter 1991), pp. 353-68. Smith provides a good critique of Benedict Anderson's *Imagined Communities* (London: Verso Press, 1983).

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voters. Only when tied to other issues such as party control over local affairs and the redistribution of revenues does regional identification become central.[21] It is not the emergence of a sub-national identity that is drawing support away from traditional political parties towards the Lombard League. Rather, it is a regional reaffirmation of traditional sub-cultural identifications. As Biorcio put it, "in Lombardy in the mid-1980s there was no basis for the emergence of a 'spontaneous' social movement predicated on a distinct regional identity."[22] The League has constituted a social movement out of previously a relatively distinct set of sub-cultures — the main pillars of support for Italy's political parties.

The League's core support is similar to the Poujadist movement in France in the 1950s: shopkeepers and small-businessmen, artisans and commercial agents.[23] They are mostly middle-aged males who have traditionally voted for the Italian Christian Democratic Party. Unlike the Poujadist supporters, however, the League's base is not premised on a rejection of modernity and capitalism. The League's electoral successes are due to its ability to contrapose traditional sub-cultural values to the crisis of the Italian party-state.[24] Bossi is effectively taking advantage of the feeling among previously traditional Christian Democrats that their sense of community is under threat not from the forces of capitalism, but from the parties' corrupt and inept power in Rome.

League support is especially strong in traditional Christian Democratic strongholds such as Brescia and Bergamo. These cities have benefitted tremendously from socio-economic modernization. Economic changes, however, did not transform these areas sufficiently to erase their local roots. Much of the industrial development in Bergamo and Brescia was with small and medium sized export oriented industries that helped to sustain certain aspects of traditional local identity. The Italian Christian Democrats and the former Italian Communist Party functioned for years

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21. Survey opinion research conducted in the mid-1980s on regional and local identification indicates that Lombards did not have any particular attachment to their region. Only 12% of Italians identified Lombard as a primary identity, while 22% defined it as a secondary one. Religious and class identification remained more relevant. This is the case for all population groups, especially the age group between ages 15 to 24, the members of which did not strongly identify with regionalism. See Roberto Biorcio, "La Lega come Attore Politico: dal Federalismo al Populismo Regionalista," in Renato Mannheimer, ed., *La Lega Lombarda* (Milan: Feltrinelli, 1991), p. 58.

22. Biorcio, *op. cit.*, p. 57.

23. Roberto Biorcio, "Neo-Populism in Italy and France," in *Telos* 90 (Winter 1991-92), pp. 43-57.

24. Ilvo Diamanti, "Una Tipologia dei simpatizzanti della Lega," in Mannheimer, *op. cit.*, pp. 159-189. Also, see Paolo Natale, "Lega Lombarda e Insediamento Territoriale: Un'Analisi Ecologica," in Mannheimer, *op. cit.*, pp. 116-117.

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as the cultural, political and even economic center for many Italians. Communist Party supporters , for example, had their "Case del Popolo" as a venue for socializing, while Catholic associations played a similar role for supporters of the Christian Democrats.[25]

According to Bossi, "the breakdown of the traditional relations between the Christian Democratic Party and the Catholic church explains, in part, the success of the League in Catholic strongholds of Lombardy and Veneto."[26] He claims that the League has assumed many of the values close to Catholic voters, such as defense of the family, education and against the myth of money and material success.

Until recently, the Christian Democratic Party has been able to control local governments through the Catholic Church and subsidiary associations. What is taking place is not a break within Italian sub-cultural values as a source of political identification, but a transfer of support from a traditional political institution towards a new social movement. In his speeches, Bossi speaks of lost community values and identity, and in his autobiography he points out that this decline of community identity is what shaped his own political philosophy. While Bossi waxes nostalgic regarding traditional Italian village life, he emphasizes that Italians cannot return to the past. They need to secure their present local and urban identities within a well-managed regional entity that will respect local traditions and interests better than the centralized nation-state.

The League's appeal, however, is not based only on lost community life. Its populist appeal is also tied to Bossi's ability to blame the Northern crisis on "outside elements." The us/them dichotomy typical of populist movements is used to contrapose Lombards with the corruption and parasitism of the South and of Roman politicians. By broadening its ethno-regional appeal to issues dealing with the socioeconomic crisis, the League has succeeded in attracting new social categories. The only social group that seems to resist the Leagues' appeal are organized workers.[27] The League has had difficulties generating support among them because it is more closely associated with the Christian Democratic subculture. This situation is likely to change. As the movement continues

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25. Carlo E. Ruzza and Oliver Schmidtke, "The Making of the Lombard League," in *Telos* 90 (1991-92), pp. 63-64.

26. Umberto Bossi, *Vento del Nord: le Mia Lega. la Mia Vita* (Milan: Sperling & Kupfer Editori, 1992), p. 190.

27. Mannheimer, *op. cit.*, p. 131. In an effort to overcome the problem of attracting the working class, the Lombard League intends to establish a northern labor movement. See "Un Sindacato per Bossi: È ora che il Nord Abbia Salari più Alti," in *La Repubblica* (June 1, 1990), p. 1.

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to replace traditional party subcultures with an ethno-regional identity, it will eventually overcome the traditional divide between Left and Right. Neither the Christian Democratic Party nor the former Communist Party are in a position to weather the present crisis.

The Lombard League's Populist Ideology

Bossi's movement has successfully blended several distinct issues affecting Northern Italians. The first is the crisis of confidence in Italy's governing institutions — especially political parties. He has used the alienation many Italians feel for the dominant parties to cast the Lombard movement as the antithesis to party politics. In his speeches, Bossi likes to point out that the League is not a party but a popular movement embodying Lombard aspirations. Second, the League has blamed the crisis of the Italian welfare state on party politics. Finally, the League blames the crisis of local communities on the Rome bureaucracy. The misallocation of resources and the poor quality of public services are due to the fact that the bureaucracy is dominated by parties and, more importantly, by Southern Italians. This bureaucracy drains tax revenues away from the North and redistributes them towards the South.

The main argument is that the Italian state does not embody the principles of a modern society, i.e., the separation of the public and the private, and bureaucratic rationality, but the parasitic aspects of a clientelistic state. In this sense, the League is a reactionary movement demanding the reestablishment of tribal rights within specific regions. On the contrary, it is a reaction to the failure of political modernization.

Although on economic issues the League is somewhat contradictory, its main conception of the economy and the role of the state is a liberal one. As Giulio Savelli notes, the League is in favor of a "free market and abandonment of the government's traditional *dirigiste* role."[28] In defense of its core constituency, the League's position is that government intervention in the economy has been detrimental to the economic interests of small and medium size firms. Large companies have benefitted from government largesse, and so have party leaders who have used public sector firms as an employment agency for their supporters. The League has taken a forceful position in favor of privatization. They argue that the resources generated from privatizing publically held firms should be transferred back to the regions where these financial resources can be used to reinforce the myriad of small and medium sized businesses.[29]

28. Giulio Savelli, *Che Cosa Vuole la Lega* (Milan: Longanesi, 1992).
29. Bossi, *op. cit.*, p. 139.

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Typical of many populist movements, the League exploits the popular belief that "big private and public companies" hinder the development of small and medium sized firms, which are the backbone of the Italian economy. On economic matters, the intellectual and spiritual leader for the League is Luigi Einaudi, who is credited with engineering the post-war economic miracle in Italy. Accordingly, the League supports wholesale privatization of state enterprises, the end of public housing subsidies, and the abolishment of state aid to the South.

League leaders argue that the political centralization of resources and political authority in Rome has been detrimental to regional identity and interests, and that the only effective government is at the regional level. In addition to their federal claims, the League blames the problems of public mismanagement and corruption on the disproportionate presence of Southern Italians in the governing parties and the bureaucracy.

The country's public administration *is* disproportionately manned by Southerners. Nearly 60% of workers for the state are Southern in origin. Within political parties, the situation is different. About 41.5% of the country's top party leaders are from the North, while 36.7% are from the South. As far as government ministers are concerned, there are not disproportionately more Southerners than Northerners. Also, more significantly, Southerners do not dominate key positions in the country's major parties, such the party secretary. They do, however, occupy about 38% of the top positions in the parties. It is in the economic sector, though, that Southerners are a clear minority.[30] This is not surprising given that the major industries and banks in Italy are in the North.

With the exception of the former Communist Party, the electoral base of the country's major political parties has increasingly shifted to the South. While all major parties in Italy have lost support in the last decade in the North, the electoral successes of the Christian Democratic and the Socialist Party increasingly depends on a Southern electorate.[31]

The Regional Reform of 1970

Although the 1948 Italian Constitution granted a great deal of autonomy to regions, political parties ignored it. Five "special regions" were created because they contained special ethnic minorities notably French-speaking Val d'Aosta, partly German-speaking Trentino-Alto Adige, and

30. See *La Repubblica* (July 4, 1990), p. 9.

31. Even the Southern base now appears to be in trouble. In local elections in December 1992, both the Socialist and Christian Democratic Parties saw a sharp decline in their votes in the South. *La Rete* and the Italian Social Movement took away many of their traditional supporters.

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partly Slovenian Friuli-Venezia Giulia, and the islands of Sicily and Sardinia. The other fifteen regions received no regional rights since no enabling legislation was passed. Only after growing demands for regional reform in the late 1960s did the Italian government partially implement the principles of the Constitution. Accordingly, enabling legislation on regional reform was enacted, with the creation of regional councils which were elected in the fifteen regions in 1970.[32]

The 1970s regional reforms resulted in the transfer of administrative responsibilities. Yet, they did not create a viable context for regional politics. The reforms were limited because they did not coincide with any specific regional cleavage in Italian society. While regional differences have always existed in Italy, particularly the North/South divide, individual and group identification has traditionally been grounded in local village or urban communities. What regional reforms unintentionally did, however, was to create an institutional context for the empowerment of local communities. In doing this, the regional reforms revealed that the souce of cultural identity and political legitimacy in Italy remained at the local level, and had never been effectively captured by the post-*Risorgimento* nation-state.[33] They created a new institutional environment demonstrating that administrative authority and resource allocation could take place outside the centralized party-state.

In this context, the centralized state tradition that came out of the *Risorgimento* and resulted in the unification of the Italian state in 1860 is attacked as illegitimate. Regionalists, in fact, trace the root of the problems in contemporary Italian society and politics to the centralizing ideology of the *Risorgimento*. The general argument is that instead of recognizing and legitimating the historical and cultural differences between regions in the country, the leadership involved in the *Risorgimento* sought to create a unified Italy from above without respecting local identities.

Gianfranco Miglio, in particular, questions the legitimacy of the Italian nation-state. He notes that "by the time Italian unification took place in the 19th century it was too late to turn the various Italian peoples into a national state such as France or England. Thus, the model of the great unitary State in Italy was not an audacious 'modernization coup' but rather a wager on the past by provincials who had lost a precious appointment with history, as attested by today's 'regionalist' challenges within the great State challenges destined to become destructive

32. Mark O. Rousseau and Raphael Zariski, *Regionalism and Regional Devolution in Comparative Perspective* (New York: Praeger Press, 1987).

33. Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton NJ: Princeton University Press, 1993).

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precisely with the advance of European economic integration."[34] The centralized nation-state that emerged from this period is no longer useful and can no longer mediate diverse local demands. The more the state tries to homogenize its social environment, the more it is confronted with a diversity of interests at the local and regional level.[35]

The League's main objective is to establish a federal system in which each region will have control over a broad range of areas now under Rome's jurisdiction. Bossi and Miglio claim that the 1970 reforms establishing regional governments was not sufficient in overcoming the problems "exported" to the more developed regions from the political center. Thus, the Lombard League would like to divide Italy into three macro-regions: North, Center, and South.[36] According to Bossi, this type of federal system is more realistic and economically viable than the seventeen regional entities created in 1970.

By dividing Italy into three distinct federal regions, most of the contradictions of modern Italian society that emanate primarly from the homogenizing tendencies of the centralized *Risorgimento* nation-state can be overcome.[37] Both Bossi and Miglio argue that a federal system is not only a devolution of administrative responsibilities as the 1970 reforms were but, probably more importantly, creates the foundation for democracy in Italy. Bossi argues that local communities would retain a great deal of their autonomy and rights within these macro-regions. The principle of subsidiarity, i.e., the recognition of the autonomy of local units within a federal system, would be one of the cornerstones of the League's federal arrangement.[38] In other words, the League wants to avoid reproducing within an autonomous Northern region the same problems of centralization that exist in Italy at the national level.

Beyond their federalist claims, the League's main leitmotifs are a rejection of immigration from the Third World and the unproductive and parasitic subsidization of the South. Third World immigration is defined as a threat to the cultural authenticity of Italy as well as the cultural specificity of individual Italian regions. There is a wholesale rejection of Third World immigration on the premise that it is a threat to stability

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34. Gianfranco Miglio, "Toward a Federal Italy," in *Telos* 90 (Winter 1991-92), p. 39.
35. Gianfranco Miglio, *Una Constitozione per i Prossimi Trent'Anni: Intervista sulla Terza Repubblica a cura di Marcello Staglieno* (Rome: Laterza 1990), p. 141.
36. *Ibid.*, p. 144.
37. Bossi, *op. cit.*, p. 161.
38. On the notion of federalism and subsidiarity, see Ludger Kühnhardt, "Federalism and Subsidiarity," in *Telos* 91 (Spring 1992), pp. 77-87. For specifics on how this would work in Italy, see Miglio, *op. cit.*, pp. 139-155.

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and order. According to Bossi, immigrants of different cultural and racial backgrounds are not assimilable into Italian society. Thus, instead of contributing to Italian economic and social development, they undermine the "natural" links holding Italian society together.[39]

Bossi and other regionalists reject Third World immigration on the same basis they reject the cultural and political influence of Southern Italians. According to Bossi, Southern Italians represent a cultural "otherness" for Northerners — especially those in Lombardy. Allegedly, they do not have the same conception of modernity. In a recent election, the League of Veneto used as a campaign slogan: "*Soldi dal Nord, Mafia dal Sud*" (Money from the North, Mafia from the South) as a way of mobilizing support. Miglio argues that a certain cultural tradition prevents the spread of modern values which are essential if the South is to overcome its economic backwardness. State support has only furthered a mentality of dependence and criminality in the region which is undermining the economic vitality of the North.[40]

The South has become a convenient scapegoat for many Northerners critical of the dysfunctions in the Italian political process. *Partitocrazia* is seen as a phenomenon perpetuated by Southern interests. Dysfunctions in the system are depicted as a result of the costly patron-client networks that parties have maintained with the periphery. Bossi and others argue that these links are regionally biased in favor of a traditionally bound and economically backward South. Nothing illustrates this point more than the issue of distribution of taxes by the national government.[41]

The Lombard League's Organizational Structure

Like all successful populist movements, the League has gradually developed into an institution.[42] At the outset, the League was nothing more than a leader, a newspaper, and a small number of supporters who travelled throughout Lombardy to spread the movement's ideas. The League was officially established in 1984, although the idea of creating an autonomous Lombard region had been around much earlier.[43]

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39. According to Bossi, "cultural differences are too much. The difference in skin color is detrimental to social peace. Imagine if your street, your public square, was full of people of color, you would no longer feel part of your own world." See the interview in *Epoca* (May 20, 1990), pp. 12-16. See also Bossi, *op. cit.* pp. 141-148.

40. On the sharp economic inequalities, see *Etudes Economiques de l'OCDE: Italie* (Paris: OECD Publication, 1990), pp. 64-64.

41. Bossi, *op. cit.*, p. 129.

42. Kenneth Minogue, "Populism as a Political Movement," in Ionescu and Gellner, *op. cit.*, pp. 204-205.

43. Bossi, *op. cit.*

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Until the Lombard League's first electoral success in 1991, the movement remained unstructured. Following this election two developments forced the movement to become institutionalized. First, there was a rapid growth in membership: from a marginal movement with a few hundred supporters the League became a populist movement able to attract thousands. Secondly, Italy's traditional parties attempt to cast the League as a flash-in-the-pan phenomenon with no real basis of support in Italian society.[44] Bossi responded by restructuring the movement into local committees throughout the Lombardy and setting up a regional executive. The League's local committees, however, are closely monitored by Bossi and the national executive. Other regional movements in Veneto, Tuscany and Piedmont have adopted a similar structure. The Lombard League's first Congress was held in February 1991.[45]

At this point, the League is a centralized political movement with decision-making concentrated in the hands of Bossi and a national committee of his supporters. So far the organization's ability to adapt to changing circumstances is due to Bossi's skills in reasserting control over the movement. The most significant crisis he had to overcome was the expulsion of the movement's second in command, Franco Castellazzi. The conflict between Bossi and Castellazzi was more than a personality clash or a power-struggle. Castellazzi represented factions within the movement that wanted to adopt a more conciliatory position towards the Christian Democrats. In cities where the League had done well electorally but did not receive enough votes to form a government, Castellazzi wanted to enter into alliances with the Christian Democrats or the Socialist Party. Bossi disagreed on the ground that this would expose the movement to co-optation and corruption by the traditional parties.[46] Despite the fact that Castellazzi and his supporters left and formed a movement with the same name, the League survived the crisis and has extended its organizational influence.[47]

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44. Giacomo Sani, "Lega, non Sarà un Flash," in *Il Sole 24-Ore* (May 12, 1990).
45. Bernard Poche, "The Lombard League: From Cultural Autonomy to Integral Federalism," in *Telos* 90 (Winter 1991-92), pp. 80-81.
46. Bossi, *op. cit.*, p. 85.
47. In recent elections in Mantova, another conflict has come to the surface, this one was between Bossi's League and a competing League organized by his sister who claimed that her brother's movement has become just another corrupt political party. See *La Repubblica* (September, 20, 1992), p. 6.

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The Future of the Lombard League

The Lombard League has introduced into Italian politics the notion that the only effective way to overcome the dysfunctions in the party system is to take away much of its political and economic authority. As long as Rome remains the political center, the representation and legitimation crisis will continue. Traditional center-periphery relations have worked to the detriment of Northerners. Bossi and other regionalists have successfuly articulated many of the Northerners' sense of alienation. They have proposed a solution.

Whether the regional Leagues will become an alternative able to take on governmental responsibilities will depend on the response of the reformists within the Christian Democratic Party. If these reformers fail to address the underlying structural problems of the Italian state and economy, the Northern League's dream of gaining control over the region will more than likely become a reality.

Even if the League does succeed in gaining control over governments in cities such as Milan, it is far from clear that the movement will succeed in establishing the federal system that Bossi claims is its *raison d'être*. Moreover, in its constitution as a protest movement, the Lombard League has not yet shown that it has succeeded in establishing an authentically new mode of democratic participation different from traditional parties. For a populist movement claiming to represent a new form of representation grounded in local accountability and popular participation, the organizational authoritarianism of the Lombard League raises questions about the League's democratic vocation. Despite Bossi's frequent citations of Rousseau and his concept of direct democracy, the Lombard League has tended to personalize power and rely on election by acclamation. How the League intends to overcome these organizational problems and the resultant deficit in democratic participation remains unclear.

Will regional movements in Italy evolve into something radically different from the traditional political parties they are attempting to replace? Bossi seems to harbor the old Leninist illusion that an authoritarian movement can produce a democratic social and political system after it has gained power. This does not fit well with the principles of integral federalism and subsidiarity that the League advocates as the heart of its program.

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Leo Lowenthal (1900-1993)

Leo Lowenthal: In Memoriam

Martin Jay

I have been preparing these remarks for a very long time. I met Leo Lowenthal in August, 1968, when I was beginning research for my dissertation on the history of the Frankfurt School. I had just turned 24 and he was a few months shy of his 68th birthday. I came to Berkeley to interview him about his role in the School's history and to pore over his copious files of unpublished materials and correspondence, which proved a real treasure trove for my project. Leo soon showed himself no less of an historian's dream, as he patiently responded to all of the questions raised by the documents he had so painstakingly preserved from both before and after the trauma of his exile from Germany. When I went back east, Leo continued to dispel my confusions by mail and read drafts of my dissertation chapters with what I soon discovered was his characteristically demanding eye. It was my good fortune to have the cooperation of other surviving members of the Frankfurt School, but no one was as generous in his guidance as Leo.

There was, however, a costly side to this relation that soon became apparent to me. Historians who treat the lives of figures still able to comment on their reconstructions are inevitably faced with a melancholy task, which looms in the near future. As their subjects definitively enter the past through death, it often falls to those who have already been treating them as historical figures to compose a suitable eulogy when their lives are finally over. One of my first publications, in fact, was such a piece in 1969 for Theodor Adorno. Over the years it has been my unhappy privilege to fulfill the same assignment for other members of the intellectual migration from Germany to America, always anticipating, or more precisely dreading, the likelihood that one day I would have to stand here as I am now and eulogize Leo, to treat him that is, solely as a figure who had passed into history.

There is, however, a more than adequate compensation for such a sorrowful task. For it is a fantasy of every historian to get to know on an intimate level, indeed to develop a personal friendship with the people whose lives they try

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to reconstruct. In the case of most of my colleagues, who deal with, say, a John Calvin, a William Jennings Bryan or a Frederick Douglass, such a dream remains necessarily unfulfilled, but in my own, the opportunity to join the Berkeley faculty in 1971 made full realization possible. Although I never lost the sense of Leo as a genuine figure worthy of historical recollection, we came over the next two decades to develop a remarkable friendship, one in fact unlike any other I have ever had or will likely have again. For with so large a disparity in our ages and with each at such a different stage in our respective careers, none of the subtle rivalry or jealousy that often runs as a dark undercurrent in friendships could develop. And having pretty much worked out our Oedipal struggles with our real fathers and real sons, we were spared even the transferential reenactments that might be expected to accompany such a relation. Instead, we built a kind of mutual support system in which the triumphs, large and small, of the other, as well as the disappointments could be shared without any complicating problems.

We even devised a wonderful solution to the dread I felt at anticipating the inevitable task of composing a eulogy. Leo kept his part of the bargain by working very hard at living as long as he possibly could, indeed at outliving the other founding members of the Institute of Social Research by a full decade. In his role as "the last surviving member of the Frankfurt School," a description so often repeated that it became a private joke between us, he was the recipient of many honors both here and in Europe. On a number of occasions, I was happily involved in the process, compiling a *Festschrift* for his 80th birthday, writing a piece on him for the *California Monthly*, editing the English language version of his autobiographical writings, helping with the *Notizbuch* prepared for his 90th birthday, and speaking at several of the ceremonies to honor his accomplishments. The result of all this is that I got to hone and rehearse my eulogy to Leo while he was still able to enjoy the experience.

And enjoy the experience to the fullest Leo certainly did. For as all his friends will surely attest, he was never shy in expressing his demands for love and affection. In fact, it was part of his genius for friendship, for along with his unembarrassed insistence on being recognized was an equally intense ability to reciprocate in kind. Having read his Hegel, Leo became a dialectician of recognition *par excellence*. He was, in fact, a deeply social animal, able to connect with people of all different ages and disparate backgrounds. And part of the reason was his evident joy in entering into the lives of those he allowed to enter his own. Whereas aging for many people means a kind of closing down, a loss of the ability to feel deeply about anything or anyone new, Leo had the remarkable gift of remaining forever open.

When I was asked after his death to write an obituary, I immediately recalled a passage from Max Horkheimer and Theodor Adorno's *Dialectic of Enlightenment*, which perfectly spoke to this aspect of Leo's personality. Commenting on the changes in middle age men, who lose their sparkle, their conversation becoming "shallow, threadbare and boastful," Horkheimer and Adorno wrote:

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"under the given conditions, the mere continuation of an existence maintaining individual skills of a technical or intellectual nature leads to cretinism even in the prime of life. Men of the world are not excluded from this general rule. It is as though people who betray the hopes of their youth and come to terms with the world suffer the penalty of premature decay."[1]

Leo's body, alas, ultimately did decay, but the miracle of his existence was that his emotional and intellectual capacities — let us call them simply his spirit — never did. And it was clearly his refusal to betray his youthful hopes that was the reason. A few years ago, Michael Löwy placed Leo in the distinguished company of Ernst Bloch, Martin Buber, Franz Rosenzweig, Erich Fromm, Gershom Scholem, Gustav Landauer and Franz Kafka.[2] There was an elective affinity, he argued, between Jewish messianism and their radical libertarianism, an affinity which, to be sure, worked itself out in different ways in their separate cases. In Leo's, the disappointments of his early Marxism ever meant the full abandonment of his redemptive dreams. As a result, although he was utterly without sentimentality and the last person who could be called naive, he nonetheless managed to avoid descending into sour cynicism or world-weariness.

It was also because of Leo's dogged refusal to accept the *status quo*, his celebrated unwillingness to "play along" (*nicht mitmachen*), that he remained apart from the normal academic careerist, who identifies himself entirely with his field and seeks professional advancement as his highest goal. Several years ago, I received a letter from an eminent sociologist, then near the end of his career at Harvard, who had worked briefly with the Frankfurt School during its stay in New York in the 194Os. Writing of the unsuccessful completion of one of their projects, which dealt with American labor, he blamed Leo for the failure. "You know Leo," he wrote, "how charming he can be. But he was also extraordinarily lazy." I remember being upset, even outraged by this characterization, which contradicted my own sense of Leo's qualities. How, I wondered, could someone whose collected works contained five substantial volumes, written even though he had been outside of academia for a substantial portion of his professional life, be called lazy? As a result, this was one letter — which also contained testy *ad hominem* critiques of other Frankfurt School members — that I chose never to show Leo, who would only have been hurt by it.

But on reflection, I came to see that despite its negative intention, there was a modicum of truth in the characterization, a truth that was connected to the youthful redemptive impulse that Leo never betrayed. One of the most beguiling books written in the Marxist tradition was produced by Marx's son-in-law Paul Lafargue, who was interestingly also one of the first Marxist interpreters of literature (he wrote a pamphlet on Victor Hugo). The book, published in 1883, was called *Le Droit à la paresse* (*The Right to Be Lazy*). In it, Laf argue defended

1. Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment*, trans. John Cumming (New York,1972), pp. 240-241.

2. Michael Löwy, *Redemption and Utopia: Jewish Liberterian Thought in Central Europe: A Study in Elective Affinity*, trans. Hope Heaney (Stanford, 1992).

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a version of materialism in which the needs of the body were fully gratified, a version in which communism meant freedom from labor, not freedom through unalienated labor. In other words, he presented an unabashedly hedonist reading of Marxism, stressing consumption over production, of the kind that Leo's colleague Herbert Marcuse was to champion in *Eros and Civilization* in the 1950's. From this perspective, the right to chose laziness was a utopian antidote to the frenzy of productivity that characterized bourgeois culture and was to be intensified under Leninist versions of communism.

Leo's reputation as a *bon vivant* was well-deserved; he knew how to cultivate sensual, as well as intellectual pleasures, and took very seriously that aspect of redemption that calls itself the resurrection of the flesh. His long-standing disdain for the culture industry was in large measure directed against its foisting of degraded and empty pleasures on the people who consumed it, but never against the value of consumption itself. For those of us fortunate enough to be enrolled in the master classes he conducted in the arts of living, the right to be lazy was one of his most valuable lessons.

Leo, however, also knew that securing that right for everyone was still a long way off. As a result, he remained perpetually restless, never easy to satisfy fully, unwilling to say to any one moment Faust's fatal line "*verweile doch. du bist so schön*." Once I made the mistake of trying to console him for what he considered the unattained status of his youthful ambitions by saying, "Leo, at least you will have a niche in history." "A niche," he replied, his voice booming, "a niche! I wanted a whole room!" Well, Leo, today you have a room and it is filled with the many friends and loved ones whose lives will never be the same for having known you. Thank you, Leo, and farewell.

*A Clear Thinker**

Helmut Dubiel

The son of a radical, anti-religious doctor from an orthodox family, Leo Lowenthal came of age intellectually in the days of the Russian and German revolutions. Like many young Jewish intellectuals of his time who began their

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studies in the chaotic early years of the Weimar Republic, he identified with a messianic strain of Zionism. The times did not bode well for a bourgeois career and today it is still difficult to identify the faculty to which he belonged. Both sociology of literature and political psychology can claim him as one of their own. He, however, thought of himself as a philosopher with empirical interests. As a Jew, he could hardly count on a position within the university. Thus he took a job as a social worker with eastern Jewish refugees, edited a Jewish news-weekly, then taught in a Frankfurt gymnasium.

In 1926 Lowenthal joined the Institut für Sozialforschung, which at the time was still relatively unknown. He worked with Max Horkheimer, Friedrich Pollock and Erich Fromm. A close working relation with Theodor W. Adorno and Herbert Marcuse developed only during the American emigration. When the *Zeitschrift für Sozialforschung* appeared in 1932, Lowenthal paved the way for a critical sociology of literature both as an editor and a contributor with articles such as "On the Social Situation of Literature," "The Reception of Dostoevsky in Pre-War Germany," "Knut Hansun — On the Prehistory of Authoritarian Ideology." This approach is characterized by its use of outstanding works of high literature as primary sources for analyzing society. From this viewpoint, social objectivity becomes tangible in the artistic creation of guilt, anxiety and intimacy, while the consideration of the particular aesthetic logic of the analyzed works do not contradict their sociological value.

The members of the Institute were forced out of Germany in 1933 when the building was occupied by National Socialists and the library confiscated. A branch office was set up in Geneva. In 1934 the Institute moved to New York where it found a new home at Columbia University. Lowenthal's *Prophets of Deceit* was published in the 1940s and brought him a great deal of fame. This analysis of the speeches of fascist agitators was closely related to Adorno's "Studies in the Authoritarian Personality," carried out with American collaborators in Los Angeles. On the basis of his work in mass communication, in the late 1940s Lowenthal was named research director of the Voice of America.

After the war Horkheimer and Adorno moved the Institute back to Frankfurt. Lowenthal decided to stay in his adopted country. In 1956 he was appointed professor of sociology at the University of California in Berkeley, where he taught until shortly before his death. Translations of his American works appeared in West Germany in the 1960s. *Das Bild des Menschen in der Literatur* and *Erzählkunst und Gesellschaft*, collected in the second volume of his *Sachschriften*, established him as an expert among sociologists and Germanists in the 1970s. But this assessment did not do justice to his theoretical radicalism, his multi-facetted biography and his intellectual vitality.

Lowenthal began to be appreciated in the 1980s when Suhrkamp published his autobiography and his *Gesammelte Schriften* (in five volumes). Only in his eighth and last decade of life did articles about him, television interviews, and honorary invitations proliferate. The city of Frankfurt awarded him the Goethe plaque for his eightieth birthday. It honored him in October 1989

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with the Adorno Prize. Both made him very happy.

Lowenthal had a breathtaking intellectual presence. The skeptical-pessimistic disposition he acquired during his life was noticeable even after he became physically debilitated. For years he had seen in West German culture a nihilistic-relativistic mentality whose representatives comfortably thrived in the plushy niches of advanced capitalism. What angered him most was the fact that these kind of people occasionally appealed to the Frankfurt School's critique of culture when they conjured up the disappearance of subjectivity in the modern world, the alleged difficulty of historical experience, or the impossibility of an emancipatory politics. The *Dialectic of Enlightenment* does discuss damaged individuality, the disjointed character of modern experience and the political powerlessness of reason. But despite all its historical despair, the spirit in which these insights were formulated never gave up the utopian image of a better society. Whoever rejects this perspective and consecrates as inescapable the misery of this world, in however cynical a fashion, has no right to appeal to Critical Theory.

In connection with the 1989 events, Lowenthal displayed a clear-sightedness which one could only acquire over a long, fruitful life. I will never forget our argument on the day the wall came down. At the time, I was ecstatic about the events in Berlin, Prague and Budapest. He could not understand it and lost his composure in front of his hotel on Bockenheimer Landstraße. The old ghosts will return, he said. The nationalist and ethnocentric spirit of the interwar period will resurface in Eastern Europe. They will persecute foreigners, desecrate Jewish graves and under pressure from the Right, politicians will be corrupt enough to take the sections about asylum out of the Constitution. I disagreed. Unfortunately, he was right.

January 21, 1993 thus marks the end of an era. For it was not only the last founding member of classical Critical Theory who died with Leo Lowenthal. He was also the last great representative of a generation of German-Jewish intellectuals born at the turn of the century which, forced out of Germany in 1933, had a critical impact mostly in the 1960s. From now on, following this generation's example and its writings, those seeking clear thinking and dignified behavior can only rely on their own powers.

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Modernity, Postmodernity and Ethics — An Interview with Zygmunt Bauman

Timo Cantell & Poul Poder Pedersen

Born in 1925 in Poland, Zygmunt Bauman has taught sociology in countries such as Israel, the US, the UK and Canada. Today he is professor emeritus after 20 years of service at the University of Leeds. His production dates from the 1950s and deals, among other things, with questions such as class, socialism and hermeneutics. While these works stimulated considerable interest, they cannot be compared to the influence of Bauman's writing since the late 1980s, when he started to analyze modernity and postmodernity.

In *Legislators and Interpreters*,[1] Bauman analyzes the role of intellectuals in the modern state. He emphasizes that, given their elitist notion of culture, intellectuals were the architects of the modern citizenry. They also served as the legitimators in the modern state's efforts to control and "civilize" its citizens. Under postmodern conditions, however, the intellectuals' role shifts to that of "interpreters," mediators between different cultures.

Bauman's *Freedom*[2] is both a dense historical account of the Western notion of freedom and a sociological interpretation of the social function of freedom. He argues that freedom of consumption has become decisive for social integration as well as individual identity. This novel mechanism of integration is one of the phenomena Bauman describes as postmodern in the following interview.

Modernity and the Holocaust,[3] which won the European Amalfi prize for sociology and social theory, is Bauman's most celebrated book. It has had a wide impact beyond sociology. In it Bauman seeks to comprehend what the Holocaust can teach about modernity. One of his main conclusions is that genocide was not merely an irrational outburst of animality or a breaking down of civilization. On the contrary, this mass murder took place in a "civilized way," with the assistance of bureaucratic organization and instrumental rationality. Bauman's point is that it is a modern self-deception to identify modernity with civilization, understood as moral improvement. He claims that much of sociology is

1. Zygmunt Bauman, *Legislators and Interpreters. On Modernity, Post-Modernity and Intellectuals* (Cambridge: Polity Press, 1987).
2. Zygmunt Bauman, *Freedom* [Milton Keynes: Open University Press, 1988).
3. Zygmunt Bauman, *Modernity and the Holocanst* (Ithaca, NY: Cornell University Press, 1989).

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enmeshed in this modern self-legitimating myth, as it understands morality as being exclusively a product of social institutions. He points to Durkheim and Freud as two main figures who support the notion of people as *a priori* amoral beings who therefore need institutions (Durkheim) or culture (Freud) to make them social (moral). Inspired by Emmanuel Levinas' philosophy, Bauman argues in favor of understanding morality not as something that social institutions create, but as something they manipulate.

In *Modernity and Ambivalence*[4] Bauman studies how modern politics, science, philosophy and culture have been obsessed with order. The problem with this is that it encourages intolerance because attempts to establish clear-cut order posits the ambiguous as something undesirable. Establishing order presupposes an exclusion and delegitimation of the other, i.e., the ambiguous that does not conform to the ordering categories. Faced with this problem, Bauman does not suggest an empty celebration of the chaotic. Rather, he considers to what extent postmodernity is a period when the fight against ambiguity is less intense, where people can accept ambivalence and thereby be more tolerant.

Intimations of Postmodernity[5] is a collection of essays which closes with a theory concerning the contingent nature of postmodern social life. Crucial here is Bauman's attempt to formulate a sociological vocabulary for the postmodern experience. Such an effort requires liberation from conventional sociological concepts such as "society," "normative group," "socialization," etc.

In the context of other sociological interpretations, Bauman's analyses are particularly original when dealing with morality and ethics. Whereas most accounts of postmodernity emphasize aesthetics, Bauman argues that postmodernity implies a reconsideration of ethics. The following interview took place in Leeds, England, in June 1992. It is meant as a clarification of Bauman's account of modernity, postmodernity and related issues.

Modernity/Postmodernity

Cantell & Pedersen: What would you consider your core ideas of the relation between modernity and postmodernity?

Bauman: I would say today that postmodernity is modernity *für sich*, modernity which goes beyond its false consciousness and comes to understand what it actually was doing all along, i.e., producing ambivalence and pluralism, and also reconciles itself to the fact that the purposes which were originally set, e.g. rational order and absolute truth, will never be reached. Some social theorists suggest that we should talk about "late modernity," whereas I prefer the term postmodernity which provides more intellectual courage — you are not bound by certain articulations typical of modern times. You can try to put yourself aside and look in from outside at what is going on, and come forward

4. Zygmunt Bauman, *Modernity and Ambivalence* (Cambridge: Polity Press, 1991).
5. Zygmunt Bauman, *Intimations of Postmodernity* (London: Routledge, 1992).

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with new concepts, new articulations and new models. It is simply a salutary decision to speak of postmodernity, rather than late modernity, without necessarily accepting every rubbish written in the name of postmodern theory. Otherwise, there is not much in this terminological discussion because the very term postmodernity is an acknowledgement of the fact that we are tied to modernity. It is not "post" anything, other than this particular kind of society.

Cantell & Pedersen: Why is the discussion of postmodernity important?

Bauman: Because it is a self-conscious stage in the development of modernity; we are damn sure about what we are doing. Thus, we know that ambivalence and contingency are here to stay. So the task is to learn how to live with them.

Cantell & Pedersen: In order to grasp the postmodern condition you have suggested giving up classical sociological categories like society, normative group (class or community), socialization and control and replace them with "sociality," "habitat," "self-constitution" and "self-assembly.[6] Why?

Bauman: Once we are self-conscious, once we know that contingency and ambivalence are here to stay, then we can stop speaking about social system, society, and start speaking about processes like sociality, habitat, self-constitution. These categories are meant to capture the spatial and temporal flux of contemporary life. They acquire their meaning from the opposition to the orthodox vocabulary of "structure," "system," "constraints," "determinants" etc. organized around the "billiard ball" image of life. Today, less than ever before is "given" and even less is "forever." "Communities" of belonging are assembled and disassembled, and self-constituting activity is virtually synonymous with this process. We enter relations and create them by entering, we exit relations and dismantle them by exiting. Shifting interests, shifting attention, shifting foci of interaction and/or identification. Imagine drifting whirlpools: processing matter, yet retaining their 'identity' only on condition of not holding it. We have been living like this for a long time, only we used to believe that somewhere around the corner there is an orderly, transparent, rational world, an end of history. Everything will come to a standstill once we have achieved the rationally organized, perfect world. Everywhere you have the same perspective,

6. Bauman's "sociality" stresses the processual nature of social reality, whereas "habitat" refers to the social totality but: "unlike the system-like totalities of modern social theory, habitat neither determines the conduct of the agents nor defines its meaning; it is no more (but no less either) than the setting in which both action and meaning-assignment are *possible*" (Bauman, *Intimations of Postmodernity*, *op. cit.*, p. 191). Habitat is only determining in that it presents a framework within which social agents act. The concepts of "self-constitution" and "self-assembly" are meant to grasp postmodern forms of identity-formation.

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from Marx to Weber and Durkheim, not to mention the political ideologies which were set to replace the chaotic, disorderly world by some transparent reality.

The last great attempt to present the world as an orderly system was Talcott Parsons' theory — an attempt to impose on a disorganized world some sort of order, by selecting some aspects as normal and dismissing others as abnormal, deviations, pattern-breaking, etc. But every attempt to speak about "society" and present a consistent model is by necessity such an attempt to be selective, to arbitrarily proclaim certain ways of social life as the "norm" and by the same token to classify all other phenomena as abnormal: either the residue of a backward past, which eventually will outlive its purpose and disappear, or some alien intrusions which have to be exterminated or marginalized.

Cantell & Pedersen: What characterizes postmodern forms of communities?

Bauman: A very brief answer would be that the most characteristic form of this kind of community is fluidity, liquidity, changeability. What I argued in *Modernity and Ambivalence*, but also in *Intimations of Postmodernity*, is that postmodern communities are more like Immanuel Kant's aesthetic communities of Ferdinand Tönnies's *Gemeinschaften* which precede and determine member's choices. They have no other firm ground but the member's commitment to stand on, so communities live as long as the attention of the members is alive and emotional commitment is strong. Otherwise, they simply vanish.

Cantell & Pedersen: The postmodern is often associated with the aesthetic. Thus Featherstone[7] talks about the aesthetization of everyday life, and Harvey[8] sees the postmodern as the hegemony of aethetics over ethics. Though you also talk about aesthetics, your focus is on ethics. Postmodernity is the time when morality is more where it rightly belongs, i.e., with individual agents. Do you see this as opposed to theories of postmodernity which emphasize the aesthetic?

Bauman: I am inclined to emphasize the ethical aspect of postmodernity. I agree with people who write about aesthetization; I just mentioned that postmodern communities are reminiscent of aesthetic communities. But ethical issues are more central to postmodernity because the modern way of dealing with ethical regulation of human intercourse is coming to a close. This modern way was twofold: on the one hand it was an attempt to take over moral responsibility from individuals by institutions, by organizations like the state or the church and, on the other hand, it was what I have called

7. Mike Featherstone, *Consumer Culture and Postmodernity* (London: Sage, 1991).
8. David Harvey, *The Condition of Postmodernity* (Oxford: Basil Blackwell, 1989).

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"adiaphorization."[9] In the Middle Ages the church councils used to decide that certain questions were "adiaphoric," that means indifferent from the viewpoint of faith, so that the church did not have a position concerning them, they were neither sinful nor virtuous. I am using 'adiaphorization' as an allegory: what has happened today is that a number of important human actions were declared morally adiaphoric, i.e., indifferent from the moral viewpoint. Most activities regulated by organizations are subject to adiaphorization: one performs duty not bearing moral responsibility for it.

Both forms of moral regulation are now in crisis; we do not trust large institutions to tell us what to do any more. The authority of churches, political parties, academic institutions and so on is clearly declining. The responsibility which was taken away from the individual is coming back — you and I are very much left alone with our decisions. We do not have a moral code which has all the visibility of being absolute and universal. We confront moral problems again as if modernity had not happened: we are thrown back to individual responsibility. That is why I think sociological theories of morality which see society as the author and the guardian of morality have to be revised.[10] This seems a crucial element in any attempt to understand the postmodern condition.

Cantell & Pedersen: Do you see any similarities between premodern and postmodern times?

Bauman: We sometimes call premodern societies "traditional." What we call the rule of "tradition" is, in fact, simply a reflection of a situation in which people live in a "I-watch-you-you-watch-me" situation, where everybody is under control, pulled down to a certain level of shared habits and customs. By and large, that was the premodern situation. It was replaced by the anonymity of modern life. Unlike premodern times, in modern times we live mostly among strangers who do not know each other. Thus the question is: how can one secure a certain predictability and order in human behavior when there is no visual surveillance of neighbors, no pressure exerted by the neighborhood or by the local community? In modernity this was done by setting obligatory moral codes supported by oppression, which actually kept people in line, and by rendering much of human behavior morally indifferent.

Now we are still in the company of strangers and from this viewpoint nothing has changed — we have not come back to Tönnies' local communities. Nevertheless, the grip of the "big code" is not holding as it used to, and therefore for the first time we have to negotiate our relation with our sexual partner, our

9. See Bauman's article "The Social Manipulation of Morality: Moralizing Actors, Adiaphorizing Action," in *Theory, Culture & Society*, Vol. 8, No. 1 (1991).

10. In the concluding chapter, "Towards a Sociological Theory of Morality," in *Modernity and the Holocaust*, Bauman initiates such a re-thinking. See also his article, "Effacing the Face: On the Social Management of Moral Proximity," in *Theory, Culture & Society*, Vol. 7, No. 1, (1990).

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spouse, our children, our parents, while bearring the burden of responsibility for the outcome.

Cantell & Pedersen: Many people are uneasy with postmodernity, charging it with being a nihilistic relativism. But the category of nihilism is of little descriptive value and more a polemic category targeted against people not without but with other values. Why is this charge so common?

Bauman: Well, I can only give you the answer you implied in your question, which is a commonsensical one. We are all dreaming about firm ground on which to walk. But postmodernity, which does not entail that "everything goes and do whatever you like," simply means that there are no hard and fast ways of separating the right and the wrong way, the right and the wrong culture, and so on. And this brings us back to the question of moral choice and reponsibility — it makes you responsible and many people do not like it.

The deconstructionists show that every belief, definition and firm statement is just the crisscrossing of many different and arbitrary interpretations. And from there you can go to only another interpretation. Not from error to truth, but from one interpretation to another and that is what is disquieting, and that is why there are objections yo this postmodern skepticism.

Cantell & Pedersen: "Postmodernity is a chance of modernity. Tolerance is a chance of postmodernity. Solidarity is a chance of tolerance" you write in *Modernity and Ambivalence* (p. 257). How do we get from tolerance to solidarity?

Bauman: This is the most difficult question. My answer is simple: I do not know. I think that in the postmodern world we are constantly on crossroads, so we will never be sure that we have left crossroads behind, and there are always two kinds of tolerance. One leads to indifference or even some sort of heterophobia which is presently gathering in force all over Europe. The other theoretical possibility is, of course, solidarity, but I do not know how to get there. I am not in the business of prophecy. Social science does not have any credentials to make prophetic statements. Social scientists who use their authority to make predictions are false prophets. All we can do is to speculate about various possibilities.

Cantell & Pedersen: Do you suggest embracing contingency as a way of cultivating a solidarian attitude?

Bauman: Yes, but we are speaking about tolerance towards difference and that is an extremely tricky issue. It is not easy to say to what extent the anxiety felt in the presence of the other, the unknown, the stranger, is more solid than any kind of social arrangement. What is going on now in Europe is an extremely rapid increase in migration. And with the growing unity of Europe

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there will be more and more of it, so presumably the populations will become more and more mixed and the presence of the other, the stranger, will become a normal phenomenon. Such a situation does not cause any social trouble in times of prosperity when people feel economically secure. The present outburst of heterophobia, nationalism and hatred of immigrants and so on is connected with the present economic crisis and unemployment. How lasting this phenomenon is it is difficult to say.

Cantell & Pedersen: You envisage a postmodern condition marked by variety, pluralism, ambivalence and contingency. What do you see as evidence for this?

Bauman: That is a crucial question. Let me try to provide a few examples of this dissemination of ambivalence and pluralism. Do you remember the Aristotelian notion of catharsis, his theory of tragedy? The role of a drama was to offer the viewers catharsis. Catharsis meant 'cleaning up.' Drama showed people who in some fashion lost their way. They found themselves in an abnormal situation which created a lot of suffering. By the end of the drama, the abnormality was overcome and you returned to the normal: the moral rule had been restored. Contemporary art does not perform the role of catharsis for the very simple reason that contemporary artists do not assume that there is a "normal" as different from an abnormal human condition; that there is some general moral law or commandment to which you can return from the aberration. What we experience as a difficult situation, uncertainty, is not abnormality, but a permanent human condition. Everything is ambiguous, there is no authoritative solution in the end of the modern drama, novel and film. Instead, people are told that if they were seeking certainty and full-proof answers, this search was in vain. In contemporary art the world is not presented as split into good people and villains. Spy thrillers, for example, are typically ambivalent, with heros committing awful crimes in the defense of their country..

Mikhail Bakhtin developed the concept of "carnival culture" in relation to Rabelais's *Gargantua and Pantagruel*. Carnival culture was the *temporal* reversal of ordinary life, the purpose of which, according to Bakhtin, was to bring into relief the *norm* as it *should* be in daily life, and make it more bearable. In contemporary culture carnival culture has moved from the margin to the center. In Britain the annual cycle consists of two parts. The one is people's saving for summer holidays, when they go to some mini-Disneyland in special areas reserved for holidays; the other is their preparation for Christmas festivities. Carnival elements dominate the year, giving meaning to the normal life. For Bakhtin carnival was just a brief exception to better underline the stern normality. Now the roles have been reversed. Worse yet: being "shown on TV" is the certificate of reality. Being a game is the condition of being real and that is why, when there are family events, to make sure that they are real you put them on video. Being seen on a screen is the contemporary definition of being 'really real.' What used to be a reflection of reality has become the standard of reality.

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Another example of the spreading of ambivalence and contingency is that suspension of disbelief is no longer a temporary phenomenon, but a permanent condition. The difference between simulation and dissimulation has been eroded, and that is why Baudrillard speaks of simulacrum, neither simulation nor dissimulation. We no longer think that the distinction between pretense and reality is so tremendously important.

Freedom and Repression

Cantell & Pedersen: In *Freedom* you argued that contemporary society is integrated through freedom (consumer freedom), not via the oppression of freedom. More recently, in *Modernity and Ambivalence*, you analyze how we freely become construed as "inherently non-self-sufficient entities" in our *privatized* dependency on expertise. There seem to be two different claims about freedom in your work. One is that the social sciences have underestimated the relative autonomy of human beings. The other is that in postmodernity freedom gains a historically exceptional role. Do you agree with this reading?

Bauman: Yes, but it is not so much a question about the postmodern condition allowing more freedom for individuals than modernity. I do not know how to measure it, really. I think that any freedom is a social relation: the more freedom I have the less freedom somebody else has. Freedom means ability to act on your will, and if you are able to have it *your* way, that means somebody else must compromise and surrender. It has nothing to do with freedom towards nature, particularly, the freedom of the sculptor who cuts the stone and changes its shape; in his case the more skills he has the more free he is to implement his artistic ideals at nobody's expense but the stone's. But concerning freedom in society, the better you can implement your own wishes, the worse someone else may be able to implement theirs. That is why I do not know how to measure the "total amount of freedom in society."

What did happen in postmodernity is that freedom was accepted as our fate. We know that we are 'condemned to be free' and that this is a situation of great risk. In his latest book Galbraith says that for the first time in the history of modernity the *majority* of people find the chances of freedom outweighing the risks. Through modernity there was always a minority of privileged people, members of the elite who wished less interference from society, but the majority of the population if allowed voted them down, preferring state redistribution of income. They felt that freedom worked against them. Only now we have in affluent countries a majority of people who are better off with all the risks which are involved in being free and standing on your own feet; better off not paying taxes and losing the state-guaranteed security. Galbraith concludes that people who can do little with their freedom as consumers will be systematically voted down. Today's poor are — culturally, by social and by self-definition — "flawed consumers," rather than "exploited producers." They are not the "carriers of

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emancipation," neither Parsifal nor Prometheus, not the harbinger of an alternative future, not politically "sexy." They are just people who cannot do what we do, but would be awfully glad to do it it they could.

With market choice moving simultaneously to the center of self-constitution, societal integration and systemic reproduction, market standards tend to dominate or replace moral responsibilities, and one of the consequences is dissipation of responsibility for the *distant stranger* — be it contemporary poor, or future generations. State concern with distributive justice is ever more difficult to legitimate — a recipe for electoral defeat. Market Standards also captured the imagination of the poor; vindications are all concerned with enhancing consumer power.

Cantell & Pedersen: Do you think it possible for political and communal freedom to counter-balance consumer-oriented freedom?

Bauman: The type of conflicts which the majority of the population faced in the 19th century led to the creation of mass political parties, mass trade-unions, etc., because individually interests could not be satisfied — they required collective effort. But the way in which individual interests are satisfied today does not promote collectivization of interest. On the contrary, Western Europe is presently faced with the privatization of dissent. I have tried to explain this in *Intimations of Postmodernity*. Consequently, I do not think there is much chance for political freedom, i.e., freedom in the ancient Greek sense of *polis*, of congregating on the *agora* and making decisions.

Cantell & Pedersen: What about an issue like the environment. Could it be an issue of collectivization of interest?

Bauman: Single issues — but single issues are not the stuff of which politics is made. Single issues — groups exerting pressures on government — is probably the wave of the future. Traditional political parties were based on a situation where there was one major conflict which divided society into two parts. Today, however, there is no such single conflict overriding all others. There are many different conflicts and each one cuts society in different ways. How to put these conflicts together — that is the problem.

Cantell & Pedersen: What kind of repressing mechanisms operate in contemporary society?

Bauman: Briefly: dependency achieved through seduction. Tempting offers of advice from experts, offers of implements from traders, which will resolve all kinds of problems. Seductive proposals are welcomed by consumers; but once you accept them, you become dependent on experts and the market. Start relying on marriage counselors and you will be increasingly dependent on

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expert advice on how to make your marriage survive. It is a "velvet dependency," a dependency which people seek actively and choose willingly.

Freedom offers many wonderful things, but it does not offer one thing crucial to individual well-being, certainty — being sure that what you are doing is right, that what you have decided to do was not a mistake. To attain this certainty you need reassurance from an authority stronger than your self-confidence. Seeking such certainty leads people to sink ever deeper into dependency.

Cantell & Pedersen: But is that repression?

Bauman: It is a "velvet repression." Mind you, I am always speaking about free consumers. I am not speaking about people on welfare who are oppressed in a very traditional way — they are still dependent 24 hours a day on institutions, which either give or do not give them money, which can control what they do, which can invade their houses at any time. But today Foucault's panoptical power is applied to a minority. For the majority, it is a sort of do-it-yourself dependency; people gladly, willingly, joyfully enter the dependency relation with marketing companies, with experts, technological or scientific, psychologists, psychiatrists and so on.

Cantell & Pedersen: But is that not too one-sided? Could one not see the use of expertise as a kind of personal empowerment as Giddens[11] does?

Bauman: Most recipients of the services of experts do not learn the skills. Instead, they define increasingly larger parts of their life as legitimate objects for experts. Look at the development of psychiatry. It consisted in defining more and more aspects of ordinary life as psychiatric cases until virtually everyone had become a potential object of psychiatric treatment.

I do not believe that it is "enabling." It may be only in a negative sense. We do not have any other skills, which would not involve specialist services. We are increasingly dependent on technology and the technologically-framed prescriptions for behavior, which we receive from counsellors. It is "velvet" repression because it does not feel like oppression. On the contrary, the usual response is: 'now I am wiser, now I am a better master of my fate.' But it is a restriction of freedom all the same. You are following somebody's recipes, you are not struggling with the problems anymore, you are just allowing other people to remove them from you. I am not saying that it is either good or bad. I am simply trying to understand how consumer freedom is so posited within individual and social life that it is no longer pitted against dependency. Freedom is not the opposite of dependency. Freedom is entangled with dependency: you become more free by purchasing more services from experts and becoming more dependent on them. So freedom is enhancing dependency.

11. Anthony Giddens, *Modernity and Self-Identity* (Oxford: Polity Press, 1991).

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Sociology Today

Cantell & Pedersen: How do you see the current state of sociology?

Bauman: Particularly in its dominant American form, sociology developed out of the false promise that it could help the managers of public, economic and political life. The two great bureaucracies in America — the Warfare and the Welfare bureaucracy — were behind the spectacular development of empirical sociology. This was an empirical sociology with practical aims, which promised to resolve social conflicts, prevent strikes, insurgency and riots, i.e. helping people or institutions to realize their aims. Because of the end of the Cold War, the shift to an individualistic free market society and the collapse of the welfare state, both bureaucracies are now in deep crisis. Therefore, the traditional basis of sociology is slowly eroding or even in the process of disappearing.

Today, there is a tremendous anxiety among sociologists in America, because some departments of sociology have already been disbanded. I am not worried because my understanding of sociology is continental in the tradition of German and French sociology rather than American. I never believed that sociology could resolve any problems: we are not resolving problems, we are only becoming bored with them. However, sociology does play an important role, but a different one, which comes to full fruition precisely in the age of postmodernity. Sociology offers an informed, wise, enlightened commentary on current experience — a commentary which is fed back into this experience and therefore makes it richer while widening horizons.

The task of sociology today is to undermine certainties, because every certainty is cutting off options. I agree with Walter Benjamin, that history is the graveyard of possibilities. Every historical development means that several possibilities have been murdered and sociology is about keeping possibilities alive. It is showing that the grounds of every solution, every belief are not absolute or universal, and everything is open to discussion and should be negotiated. So, from this viewpoint, one should not be worried about the dismantling of American sociology departments, because they have been doing something completely different.

Cantell & Pedersen: The role of the founders of sociology has traditionally been strong. If the postmodern turn undermines their importance, what is left for them to do?

Bauman: In a sense we are coming back to the classics. Not that we are repeating what the classics said, but that we are doing the same kind of sociology again. What distinguished classical sociologists was that they dealt with the big problems of their time. That was the tradition of Durkheim, Weber and Simmel, who just tried to understand the plight of men and women thrown in an urban society. And that is what sociology, whatever is left of it, will be doing again. So there is a continuity, but there is also a discontinuity. While most

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classical sociologists believed that we are moving towards a rationally organized society, we no longer believe that. While they believed that history has a pointer, that there is a progress, we no longer believe that either. We just believe that history is a succession of events without any pre-given directions.

The Problem of Globalization

Cantell & Pedersen: How do you see the future of Europe and globalization?

Bauman: First of all, I am not sure that postmodernity is fit for globalization. Postmodernity is a culture of the privileged part of the world and it depends on the high degree of consumption and affluence which is typical of this part of the world. It cannot simply be made into everybody's way of life. Normally, stimuli travel without the economic and social basis on which they grew, they acquire some sort of independence, they become stimuli elsewhere without conditions for their thriving having been met. But when stimuli travel alone, without the social-economic basis, they result in unpredictable consequences. I have argued that the fatal blow to communism was delivered by postmodernity. Communism could live happily ever after with the modern world, which was all about increasing production — more steel, more coal, building irrigation systems and so on. But it could not live with the world based on enjoyment, freedom, game, playfulness, variety, etc. That is what the communists could not produce. But does this mean that in Russia, the Ukraine or Bulgaria you will have a postmodern society? I do not think so. The stimulus was there and it has already triggered its consequences. The outcome will be some sort of a mixture which is very difficult to predict.

The most important phenomenon in Europe today is the slow withering away of the nation-state. The nation-state was a unique institution in history which united economic management, political authority and cultural hegemony. Today, economic management is moving away from the nation-state because of the globalization of the economy. The nation-state is no longer an economic system, self-contained or self-sufficient. As far as the cultural hegemony is concerned it moves downwards from the state. The movement is not upwards like the economy, but downwards towards social movements, communities, ethnic groups and so on. What is left in the nation-state is just pure political authority without it being supported by economic management and cultural hegemony. I wonder how long this fiction can survive without its two other pillars. At any rate, we are probably coming to the end of the nation-state. With what outcomes, it is difficult to say. We are witnessing both economic globalization and cultural tribalization as leading in opposite directions. This is something new, which we do not know how to handle since all sociology was used to a situation which enclosed all three aspects. Suddenly, each aspect has its own space and how they interact has yet to be established.

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Reviews:

The Case Against Affirmative Action

Gertrude Ezorsky, *Racism and Justice: The Case for Affirmative Action* (Ithaca, NY: Cornell University Press, 1991), 140pp+ix.

Gertrude Ezorsky's very first sentence is wrong — "The affirmative action programs begun in the 1960s have been diminished in the 1980s in response to a different political climate" (1). Practices such as "race norming" of test scores on employment examinations — whereby the millions of Americans who took federal civil service examinations, most state civil service exams and many tests for the private sector, were graded according to race — were institutionalized only in 1981. According to this practice, if a white, a black, and an Hispanic all answered every question the same way, the white would receive one score, the Hispanic would be given an additional 15 points, and the black about 28 points above the white. No one was informed that the scores were skewed to discriminate against whites. This expansion of the double- and triple-standard affirmative action concept took place under the Reagan Administration and continued afterwards.

Ezorsky's erroneous beginning is typical of the whole book. Her concept of affirmative action is shallow, her presentation of positions opposing hers caricaturish, her knowledge of history spotty, and her use of language — naturally — "politically correct." She focuses primarily on affirmative action (AA) for blacks. A black may be denied a job because an employer is racist. Proving that is difficult, and if the case is won, it affects only one worker and one employer. She argues that, as blacks in the 1960s were often denied positions, even when employers showed no evident racism, something else must have been occurring: "institutional racism." Thus, e.g., when blacks, as a group, fail to achieve the same scores on an objective examination as whites, this must be due to institutional racism. This mechanism has an impact in hiring through various means: hiring through personal connections, seniority systems, or using "objective" qualification reguirements. The only certain method to counter this racist impact is to hire blacks as a percentage of the work force. Furthermore, to achieve this, "basically" qualified blacks may have to be hired over better qualified whites. Quotas, goals, and timetables are therefore necessary to guide the struggle for justice and against racism.

She dismisses possible backlash and white stereotyping of blacks hired through AA as an insignificant problem. After all, better a "basically qualified" employed black than an unemployed one, who would simply reinforce the stereotype of the lazy, shiftless black. Moreover, AA has helped many poorly educated as well as better educated blacks. Of course, underclass blacks may

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not have been aided by AA but, on the other hand, no other program seems to have been particularly successful in helping them. She considers AA ethically correct because it compensates for past wrongs of slavery and segregation. It fosters a future with a well-integrated work force, with blacks proportionally represented in all types of positions, high and low. This would allegedly end a chain of stereotypes and racism would be finally overcome. It is even ethically correct to give preference to wealthy blacks over poor whites because all blacks have experienced racism. Similarly, she considers it just that wealthy veterans be given preferences over poor non-veterans.

Individual whites who have to pay a relatively high price for AA (by not obtaining a job, promotion, scholarship, etc.) might be compensated by a special fund of the Federal Government obtained from a new, "progressive" tax. To those who object that AA violates the merit principle in hiring, Ezorsky responds that when hiring relatives, veterans, or through "old boy" networks, the merit principle is routinely violated, so why should anyone object when a black is hired under AA? Moreover, the more blacks hired and promoted into higher positions, the more role models in good positions for young blacks.

Why would anyone object to this? Ezorsky sees AA as the proper way to ensure that blacks receive their fair share in employment: AA is "aimed to diminish these effects [of institutional racism] by moving the black work force toward approximate statistical parity — that is, to achieve occupational integration throughout the hierarchy of employment" (32). Where blacks fail to achieve statistical parity, AA assumes it is due to racism, something that can only be overcome by insuring proportional representation of blacks. Along with most proponents of AA, Ezorsky argues that, if blacks are underrepresented in a given occupation, this is because blacks have been or are oppressed. Indeed, the statistical gap between the black percentage of the population and their percentage employed in an occupation, or owning radio stations, reflects the extent of racist oppression.[1]

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1. One court case Ezorsky does not mention is *Metro Broadcasting v. Federal Communications Commission* of 1990, in which the Supreme Court ruled 5-4 that the FCC could continue to grant preferences to blacks seeking to purchase radio stations because, though blacks are about 12% of the population, they own only 3.5% of the radio stations. In order that blacks may more readily achieve their "fair share" of stations, and also diversify broadcasting, the federal government, through its agency, was allowed to continue granting preferences to black purchasers. For most of the decades of network broadcasting, beginning in the 1920s until the 1980s, the three major radio, and then television networks, were Jewish dominated. Should a group composing 2% of the American population control 100% of its major networks? Was that their fair share? Yet, in 1985, when Jesse Helms, and then Ted Turner, both white, Southern, gentiles, sought to purchase CBS Television, there was a storm of protest from liberals. The same media outlets that praise "diversity" and endorse AA, including the Supreme Court's ruling on black-owned stations, were the same ones opposed to having a white, Southern, gentile dominated network. Liberals suddenly forgot about diversity and fair shares and approximate statistical parity.

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Another book, published shortly after Ezorsky's, develops arguments similar to hers. In *The Constitutional Logic of Affirmative Action*, Ronald J. Fiscus poses a choice: either justice through quotas, or racist injustice.[2] His argument is simple: if children were born into a society devoid of racism, 80% white and 20% black, then some 20 years later the admissions to medical school would be 80-20, to law school 80-20, to the police department 80-20, and on the unemployment line 80-20. Any variation from the racial proportion is due either to genetics (the racist explanation) or to racism. Either nature or nurture. By instituting racial quotas so that only 80% of the doctors, lawyers, police, would be whites, the US would be merely legalizing the proportion that would occur naturally in a non-racist society. Fiscus urges quotas, not in the name of compensatory justice, making amends for slavery and segregation, but in the name of distributive justice. Since in a just, non-racist society only 80% of the doctors and lawyers would be white, it is unjust to permit more than 80% to be white in present day society. Quotas are not "reverse discrimination," for they do not take away from whites the places and occupations that they would have had to begin with in a non-racist, just society. Fiscus concludes that whites should never receive more than their proportion of the population in employment, government, entertainment and other areas.[3]

Fiscus goes beyond Ezorsky in maintaining that residence should also be proportionatly distributed. To the extent that it is not, racism must be the culprit.[4] The situaton must be changed. Thus, universities in Idaho should have minority quotas set at 20%, the proportion of blacks and Hispanics who would have moved there had it not been for racism.[5] Fiscus concedes that some people prefer to live in proximity to similar people — gays may prefer to reside among their own[6] — but he rejects the idea of people of the same race preferring to be among their own race because that would be racist. Fiscus also opposes quotas for white ethnic groups because some ethnic groups have developed cultures fostering intellectual or athletic achievement, etc. Hence, quotas for white ethnic groups would be unfair to those groups that strive the most.[7] Furthermore, whites may change their ethnic identification.[8] Blacks, on the other hand, have no ethnic identity; their culture is American. Because races and ethnic groups are not comparable, racial quotas are fair but ethnic quotas are not.[9]

Fiscus' arguments are the worst kind of ideological dogmatism. To begin

2. Ronald J. Fiscus, *The Constitutional Logic of Affirmative Action* (Durham and London: Duke University Press, 1992).
3. *Ibid.*, pp. 15-20, 24.
4. *Ibid.*, pp. 21-22.
5. *Ibid.*, p. 89.
6. *Ibid.*, p. 23.
7. *Ibid.*, pp. 59-61.
8. *Ibid.*, p. 31.
9. *Ibid.*, p. 60.

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with, there are ethnic divisions among blacks. Indeed, often West Indian blacks have succeeded so well in the US that they have faced hostility from American blacks.[10] Moreover, this success of West Indians disproves the liberal contention that racism is the cause of black failure in the US. At any rate, *why do Haitians risk their lives to sail to America (and not to Cuba or the Dominican Republic) if racism were as powerful as Fiscus, Ezorsky, and various Black Nationalists maintain?* The black community, like the white one, has its divisions. Also, blacks from Mississippi or the Carolinas are significantly different from those in New Orleans or Harlem. And a black Roman Catholic might view things differently from a black Evangelical or a Black Muslim. These differences in background, outlook, values etc. help determine if one studies law or practices football or plays jazz or sells crack. It varies among white individuals, among white ethnic groups and among blacks as individuals and as groups, among Asians, Hispanics, American Indians, etc. Why then should quotas be set on racial lines?

Jared Taylor notes that one factor is crucial in determining if an American child will be raised in poverty, get into trouble as a teen and probably end in jail. That factor is not race, but whether he has two parents. The black family survived slavery, Reconstruction and segregation. As late as 1959 only 2% of the black children were raised in households where the mother never married. Now, in the era of diminished racism and liberalism, that figure is nearly 60%.[11] Fiscus and Ezorsky are wrong; it is not racism, but liberalism and welfarism that are more likely to explain why Johnny Jefferson can't read well and sells crack. If 60% of Chinese children in America were born to single *mothers who never marry, it is probable that Chinese would fill our prisons.* "Disparate racial impact" is caused less by racism and more by the consequences of liberalism and the welfare state.

In his study of the medical profession under the Nazis, Robert Proctor notes that in Berlin in 1933 Jews, less than 5% of the population in the German capital, constituted over 50% of the medical doctors.[12] According to US advocates of AA, one can only surmise how German Jews oppressed gentile Germans! Similarly, in 1930 the Jews must have also been oppressing the gentiles of Prague, Paris, Vienna, London and Rome! It is ironic that it is often Jews, the most over-represented group in the media, academia, the legal profession, etc., who are among the most vehement in demanding that blacks and Hispanics receive their "fair share" of openings in those professions. Ezorsky might find nothing wrong with a medical school student body composed of 12% blacks, 8% Hispanics, and 80% Jews, so long as 51% were female. But what about the "fair share" for gentiles? If AA would apply the same standard of "fair share" to Jews

10. Jared Taylor, *Paved with Good Intentions: The Failure of Race Relations in Contemporary America* (New York: Carroll & Graf Publishers, 1992), p. 25.

11. *Ibid.*, p. 295.

12. Robert Proctor, *Racial Hygiene: Medicine under the Nazis* (Cambridge, MA: Harvard University Press, 1988), p. 48.

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that it does to white males, there would not be another Jewish professor hired until the year 2010, not another Jewish lawyer licensed until 2015, not another Jewish doctor graduated until 2030.

Taking the racial gap as the test of racist oppression, as Ezorsky and other liberals do, has frightening implications. Why research merely the "racist impact" in a specific job category, be it construction workers in Philadelphia or telephone operators at AT & T? Why not view national statistics as a whole? These reveal that the household income of blacks in America is a mere 68% of the national average.[13] This should prove that oppressive racism costs blacks some 50% of what their incomes ought to be. Of course, those same statistics reveal that American Jews receive 155% of the average income and constitute the highest income group. Clearly then, gentiles as a group must be oppressed more by Jews than blacks by whites.

Along with most AA-supporters, Ezorsky claims that black students require role models in the form of black teachers, professors, and other professionals (88). In the 1920s Albert Einstein taught at a German university. After Hitler came to power in 1933, Nazis began purging Jews from universities (and German life as a whole). There was no longer a place in Germany for an Einstein to teach German students since Einstein was a Jew and could not be a proper "role model" to German gentiles. But the professors who replaced Einstein in Germany, German gentiles to teach German gentiles, were lesser "role models" if for no other reason than that they knew less about physics than Einstein. A black mathematics professor who does not understand algebra is probably a poor professor for both blacks *and* whites. The most knowledgable person will probably be the best teacher, independently of race, religion, gender, etc. AA advocates reject merit and objective testing and, like Hitler demanding that only gentiles teach German gentiles, they also demand that blacks teach blacks, women teach women, Hispanics teach Hispanics, etc. AA defenders, the new liberals, have thus effectively rejected what has traditionally passed for liberalism to embrace a philosophy closer to Nazism.

Other aspects of the question of "role models" deserve discussion. Paul Piccone contends that "role model" psychology relegates all learning to pre-adolescent, particularistic modes precluding acquisition of more rational, universal, and objective forms that occur with the achievement of maturity.[14] He regards the emphasis on role models a "form of paternalistic poison which perpetuates cognitive immaturity and a pathological relation of overdependence on a now diffused authority"[15] stunting learning and limiting many students to particularistic perspectives that inhibit acquisition of universal knowledge.

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13. Christopher Jencks, *Rethinking Social Policy: Race, Poverty, and the Underclass* (Cambridge, MA: Harvard University Press, 1992), p. 28.

14. Paul Piccone, "Artificial Negativity as a Bureaucratic Tool? Reply to Roe," in *Telos* 86 (Winter 1990-91), p. 135.

15. *Ibid.*, p. 136.

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On the other hand, Piccone emphasizes that role-model pedagogy has been "a career bonanza for otherwise relatively mediocre New Class members [bureaucrats] of particular minority groups."[16] There is growing evidence for this and its broad, debilitating social implications.

Under a provision of the Civil Rights Act of 1964, James S. Coleman was appointed to direct a survey of race and education for the US Office of Education. The researchers investigated many things, most of which did not appear to have a decisive effect on education. "On the other hand, . . . one school resource [was] . . . more highly related to student achievement than others . . . we found that teachers' scores on vocabulary tests were related to the verbal achievement of students in the school. Other characteristics of teachers were not, including degrees, experiences, and salary; . . ."[17] Coleman, years later, acknowledged the disturbing implications of the study — "One would be that a major source of inequality of educational opportunity for black students was the fact that they were being taught by black teachers. Another, . . . would be that black and white children would have greater educational opportunity if they were not taught by these teachers."[18] But neither Coleman nor his colleagues nor the Johnson Administration desired to press further research on that topic or publicize the prepared findings because of the political implications. Coleman reflected in 1990 that by not pursuing the results of the early research, "we aided in the sacrifice of educational opportunity for many children, most of whom were black, to protect the careers of black teachers."[19] In this context, the role model argument appears simply as an excuse by the bureaucracy and its defenders for controlling a "set aside" program for lesser qualified and unqualified minority teachers.

Returning to Ezorsky, she brands race-neutral, objective examinations for employment as "racist" because blacks (and Hispanics and sometimes women) perform less well as groups than other groups. With AA they will be hired, promoted, given scholarships, contracts, etc., anyway. According to her, there is nothing wrong with this violation of the merit principle. Nepotism is also a violation of the merit principle. So is hiring through "old boy" networks. Giving preferences to veterans and alumni is also a violation of the merit principle. As already indicated, she argues that, as the merit principle is so widely violated, why do people complain when blacks are given a preference, in violation of the oft-violated principle (90-92)? Is it not racist to decry only violations that help blacks?

Nepotism and the "old boy" networks should be denounced, but they are part of life. At any rate, blacks have also been guilty of nepotism and hiring

16. *Ibid.*, p. 137.
17. James S. Coleman, "The Sidney Hook Memorial Award Address: On the Self-Suppression of Academic Freedom," in *Academic Questions* (Winter 1990-91), p. 19.
18. *Ibid.*, p. 20.
19. *Ibid.*

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friends, in violation of the merit principle. Giving preference to veterans is a principle based on rewarding those who risked their lives to defend the country. Most Americans approve of this preference. But should blacks receive a preference just because they are black? Mexican-Americans because they are Mexican-American? Chinese-Americans because they are Chinese-American? Women because they are women? Ezorsky says yes. But is this not contrary to fundamental constitutional principles? Should not merit be the determining ideal in hiring and promotion, rather than racial or sexual quotas?

Is this not what the civil rights movement was all about — the attempt to stop state (and to a lesser extent, the national) governments from treating races differently? The ideal was clear. The Civil Rights Act of 1964 was passed to legalize this ideal of a color-blind society. It explicitly outlawed quotas. It explicitly permitted employment tests, even assuming that there might be a disparate racial impact. It strove to provide all people with equal opportunity before that phrase was redefined by its opponents in the EEOC to mean the denial of equal opportunity to whites and to men. The 1964 Civil Rights Act, which Ezorsky fails to include among her documents and whose history she omits, was intended to enshrine and formalize the ideal of the color-blind society. Unfortunately, the commission established to administer the 1964 law conspired to subvert it. Hugh Graham has detailed how a bureaucratic and judicial elite subverted the 1964 Civil Rights Act, replacing ideals of non-discrimination with racial, ethnic, and gender preferences; perverting the ideal of equal opportunity into the denial of such opportunity to white men; distorting affirmative action into inferior action — from outreach to qualified minorities into hiring those with inferior qualifications.[20] In urging passage of the 1964 bill, liberal Sen. Hubert Humphrey declared that nothing in the proposed law would result in a lesser qualified black being hired over a better qualified white. Ezorsky not only acknowledges that hiring of lesser qualified blacks occurs, she also applauds it. Along with a few elite judges and bureaucrats, she has turned Humphrey's law on its head, so that the Civil Rights Act of 1964 has become the reverse of what was intended. But she is not concerned with the violation of democratic process whereby liberal administrators subverted American law. She endorses the subversion by avoiding the topic and defending the results — AA.

The truth is that AA became a national policy under the Nixon Administration.[21] It remained policy under the Ford Administration, and was expanded under President Carter. Although Ronald Reagan ran in 1980 questioning some of the values of the double-standard Democrats on AA, and though he appointed some vocal opponents of AA to the Civil Rights Commission and other federal agencies, it was under Reagan that "race norming" of test scores

20. Hugh Davis Graham, *The Civil Rights Era: Origins and Development of a National Policy, 1960-1972* (New York: Oxford University Press, 1990), pp. 149-52.

21. *Ibid.*, p. 150.

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was introduced, thus expanding AA discrimination to harm tens of thousands of white Americans who took employment tests during the decade.[22] Though President Bush denounced quotas, he eventually signed the 1991 Civil Rights Act, which he had earlier labeled a quota bill. Although polls consistently show that most Americans reject legalized racial preferences in hiring, etc., both major parties, whatever their public rhetoric, have privately supported and expanded the AA-quota system. Both major parties have accepted the unethical (as well as un-Constitutional and illegal) view that government has the duty to discriminate against white men. When white males object to such discrimination, they are dismissed as "racists." Meanwhile America's only institutionalized racist agency, the AA bureaucracy, shows no sign of this being a temporary expedient. After all, what bureaucracy has ever voluntarily contracted or abolished itself?[23]

For liberals such as Ezorsky, discrimination against white men is not "discrimination." She discusses AA goals and timetables as quotas, but she argues that they should not be called quotas because of negative connotations (38). Interestingly, she never mentions "equal opportunity" except when referring

22. It would be impossible to determine the exact number of people whose careers have been thwarted because of race norming. According to Taylor: "By 1986 about forty US state governments and myriad private companies were race norming their test results. Of the estimated sixteen million candidates whose scores have been adjusted this way, virtually none was ever told about it." See Taylor, *Good Intentions*, *op. cit.*, p. 158.

23. Taylor reports some interesting aspects of the relation between big business and AA. Under President Carter, the Chair of the Equal Employment Opportunity Commission, Eleanor Holmes Norton, demanded that private concerns hire a racially balanced work force or be sued by the EEOC. See Taylor, *Good Intentions*, *op. cit.*, p. 143. Of course, at the same time Norton was firing white men in the EEOC so that her agency became 49% black. Some of the whites sued EEOC for racial discrimination and won the case in court. See Hugh Graham, *Civil Rights Era*, *op. cit.*, pp. 459-60. When, under Norton, the EEOC charged Sears-Roebuck with maintaining an unbalanced work force, the department store chain fought back in the courts. Eventually, Sears won its case. However, Sears had to pay $20 million in legal fees to prove that it was not discriminating. See Taylor, *op. cit.*, p. 150. Too many such victories could bankrupt a firm. Of course, the EEOC could sue unconcerned about the cost of litigation or anything else. (Norton, an attorney, was so unconcerned about the federal deficit that she "neglected" to pay her federal income taxes for several years. She presently represents the District of Columbia in the US Congress). Major US corporations have been traditionally associated with the Republican Party. Today, many large corporations consider it cheaper to accept quotas than to fight them, for even if they were to win in court, as did Sears, the victory would be too costly. By 1985 the National Association of Manufacturers was lobbying to retain government enforced minority "goals and timetables" (quotas). Why? Taylor writes: "The elimination of a regulation would thus have forced companies to choose between two painful alternatives: either continue with affirmative action and face lawsuits from whites, or abandon affirmative action and provoke the wrath of non-whites. The big business lobby prevailed, and its clients were spared this unpleasant choice." See Taylor, *op. cit.*, p. 157. Big business also endorsed the proposed Civil Rights Act of 1990, at a time when President Bush was denouncing it as a quota bill. A year later, Bush signed the slightly revised quota law as the Civil Rights Act of 1991.

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to an agency's name. She favors racial and sexual preferences, and she is honest enough to recognize that AA preferences contradict "equal opportunity."

Ezorsky relates that in the 1960s liberals challenged "race neutral" testing for jobs, arguing that a) many tests were unrelated to knowledge of the specific job, and b) blacks often performed poorly on such examinations. Since there was a "disparate racial impact" in the results, such tests were really measuring only the degree of oppressive institutional racism. But the 1964 Civil Rights Act specifically permitted firms to test potential or current employees with professionally developed tests like the General Aptitude Test.[24] At any rate, what is wrong with a non-specific job test? Is it not true that the duties of many jobs change, or can be changed, if people think about how to improve them? A major general exam, i.e., a test less related to the specific job, might result in hiring better qualified workers to improve that job as it changes in the future. The entire basis for a liberal education is just that — that a non-specific education in critical thinking will provide the best foundation for many types of employment. However, since blacks did worse on such tests, the Supreme Court ruled them in violation of the Civil Rights Act of 1964.

After the 1971 ruling in *Griggs v. Duke Power Co.*, tests for employment had to be job-specific, and disparate impact was considered to be a result of institutional racism.[25] From the liberal viewpoint, the trouble with this ruling was that even with narrow, job-related exams, blacks still failed to perform well. So even on job-related exams, liberals maintained there was a "racist" impact whereby whites and Asians outperformed blacks and Hispanics. A glamorous refutation of this occurred in New York City. On exams for promotion in the police department, whites scored better than Hispanics and blacks. Liberals challenged the tests in court. A committee including blacks and Hispanics was created to design a new test. When results of the next exam were announced, the exam developed by this special committee, blacks and Hispanics again performed poorly. Some liberals then proposed ignoring the tests and hiring by quota. A similar problem occurred concerning entrance into some of New York City's special high schools which, though public, retain high entrance standards. On entrance exams whites and Asians outperformed blacks and Hispanics. New York's liberal school board then voted to permit 200 blacks to enter one of the schools by lottery.[26]

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24. Hugh Graham, *Civil Rights Era*, *op. cit.*, pp. 149-52.

25. *Ibid.*, pp. 383-91. For a contrasting view, see the account of the Supreme Court's *Griggs* decision in Ezorsky, pp. 111-21. The Court even forbade use of a high school diploma as a job requirement at Duke Power Co.

26. Though Ezorsky's book dwells on AA for blacks, a similar case concerning objective examinations occurred when feminists complained about science examinations. Feminists contend that girls receive grades in science equal to those of boys but, as a group, the girls perform poorly on objective tests in science. Consequently, most state scholarships in science were awarded to boys. Feminists pressured liberal New York state to award 50% of the scholarships in science to girls, even if they did poorly on exams. See *The New York Times* (July 1, 1987) p. 3; (Feb. 4, 1989) p. 1; (Feb. 10, 1989), p. 2.

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According to liberals, objective tests are fair within racial, ethnic, or sexual groups, but unfair when each group is graded by the same standard. Thus, liberals demand race norming, or some other process to ensure equal outcome of groups' scores according to proportional representation. However, if the tests are invalid among and between groups, how can liberals claim that they are valid within groups? Ezorsky likes to play with words. She states that AA does not entail hiring, promoting, or admitting the "unqualified." Rather, it is hiring the "basically qualified." She concedes that some "basically" qualified blacks will not be as well qualified as whites who are rejected under AA, but she defends this racial preference. But hiring by lot, admitting by lot, promoting by quota, is not necessarily admitting the "basically qualified," but probably the unqualified. In any case, her demand to reject the best qualified amounts not to affirmative action, but inferior action.

I have taught at universities in three countries — black colleges in the American South, a university in Scotland, and two in Germany. At the time only the German universities indulged in AA. As a group (with individual exceptions, of course) German students were the dimmest I had ever encountered at the university level.

The German system of AA insured an atmosphere of unquestioning conformity which stifled creativity and resulted in academic indifference. In the German Democratic Republic (the former East Germany) students were accepted in universities on the basis of 3 criteria. First, high school grades. This suggests that the East German universities would be filled with sharp, enthusiastic scholars. However, there had been an ever-increasing grade inflation in the schools. If everyone receives an A or a B, then theoretically everyone is "basically qualified" to attend university. Therefore, the other two criteria weighed more heavily in the selective process. The GDR, "the first socialist state on German soil," demanded social-class quotas. Children of teachers or newspaper editors were "bourgeois," and had a more difficult time gaining admission than children of the working-class, children of miners, of policemen, of janitors, or directors of collective farms. From 60% to 80% of the university places were set-aside for the children of proletarians. In addition there were AA preferences for those of the Slavic-speaking Sorbic minority.

Because a smaller percentage of the population attends university in Europe, even with preferences, not all children of the working class could attend university in the GDR — even if most received A's and B's in high school. How then could students be selected for admission? By default, the most important criterion, the third, hinged on the student's social attitudes. The political criterion too often became the primary one for university entrance as well as everything else in the GDR. As some of the "political" students were only "basically qualified," by normal, academic standards, what would happen if they performed poorly at the university? If a professor failed a student — and those most likely to fail were the recipients of AA preferences — this meant that the professor was attempting to alter the percentage of working-class or

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Sorbic students at the university, seeking to reduce the percentage determined by the nation's leaders. Should a bourgeois professor have such power? Professors quickly learned that to try to fail certain students would mean arranging after-hour consultations with the failing students, late meetings which the students might forget to attend, etc. In effect, the professor would be punished for his audacity and arrogance in trying to sabotage the working-class university reform in communist East Germany. And what was true of the university was true of society as a whole. AA provided the communists with a leverage to wield power in the university and in other institutions. But with it, the communists erected a society based on fraud and inefficiency. They deprived society of its intellectuals, of its industrious, creative and efficient types. Outside sports, few besides the opportunist and the conformist could thrive.

If, in some ways, the supporters of AA have adopted ideas similar to the Nazis, in its bureaucratic form they have adopted methods similar to the communists. The failed East German system seems to be the "role model" for many proponents of AA. Already, in hiring at various universities, search committes are aware that they must hire a minority or they may lose the appropriation to hire anyone. Sometimes, an AA officer sits in on the interviews of prospective candidates. What if a candidate is asked about his views of AA? The political censor — the AA officer — will be expected to act as a commisar for liberalism. Wherever the AA officer wields power in the school, in the factory, in the office or in government, the seeds of tyranny are present.[27]

Similarly, multicultural cheerleaders forget that in the old Soviet Union, people of various colors and disparate histories performed dances to many kinds of music played on heterogeneous instruments. At the end of the program, they all praised Stalin.[28] In Stalin's Soviet Union there was enormous racial diversity, but never diversity of thought, politics or values. In America today, multiculturalism and diversity are code words for a new, unitary tyranny.

Why do blacks, as a group, perform consistently worse on exams than whites? Liberals respond: the tests are culturally biased in favor of whites. Yet, recently arrived Asian and black Caribbean immigrants also outperform American blacks and Hispanics and, sometimes, whites. Are the tests culturally biased in favor of Asians or immigrants? Blacks and Hispanics, as groups, may do less well than whites and Asians for many reasons: from motivation, which is hard to measure, to intelligence, to crime and drugs.

But even more to the point, what proof does Ezorsky and other liberals have that all races, as groups, are equally intelligent? Their assumption of equality is a matter of faith. Yet, their whole notion of "fair share," proportional representation at the work place, "disparate racist impact" due to the workings of oppressive institutional racism, etc., rests on the liberals' article of faith that all

27. For a disturbing analysis of the role of bureaucracy in tyranny, see Zygmunt Bauman, *Modernity and the Holocaust* (Ithaca: Cornell University Press, 1989).

28. For a similar point regarding AA's artificial diversity, see David Pan, "Ivory Tower and Red Tape: Reply to Adler," in *Telos* 86 (Winter 1990-91), pp. 113-15.

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races as groups are equally intelligent and capable in all fields. Even if Ezorsky's faith that all races as groups have the same percentage of equally intelligent and adept people in all fields, there are other problems with AA's demand for proportional representation in the work place. Some 25% of young black males are in prison, on parole, or somehow involved in the criminal system. Should criminals be hired in the same percentage as honest people? If so, is it not a slap in the face to those, especially blacks, who have refused to engage in crime?

The point is that the Civil Rights Act of 1964 permitted employment exams. It was assumed by the sponsors of the amendments to the act that there might be a disparate racial impact as a consequence of the tests. The legislators thought in terms of individuals taking the exams, not groups. However, when blacks as a group did poorly on such exams, liberals sought to ban or rescore the tests so that there would be proportional representation in the results. Ezorsky wants to ban all objective, race-neutral tests which are objectively scored. The one exception, the one exam that Ezorsky allows — indeed, demands — is the test to determine what percentage of people hired, admitted, and promoted are blacks, Hispanics, women, etc. Compare that percentage with the percentage of minorities and women in the field, and any disparate impact is proof of racism. According to Ezorsky, this is *the* objective test, *the* measure of racism, and *the* measure by which racism is overcome.

When Creationists demand equal time to teach their view of the origins of the universe in public schools, liberals, academics, and presumably Ezorsky, object to teaching religion, "faith," instead of science in the public schools. Yet, in the name of the faith of the new liberals — that all groups of people are equally gifted in all fields — white men are denied equal opportunity.[30]

One aspect of AA not mentioned by Ezorsky is how this policy compounds its own problems. For example, the government realized that in creating AA goals and timetables in the higher civil service categories and managerial positions in private business and industry, it could not use for measuring purposes the percentage of minorities or women in the general population. This was because many women might not be in the job market, or many minorities may not have even the simplest qualifications for such posts. So, to determine the goals and timetables for higher job categories, the government used as its base population, not the general population, but the percentage of minorities enrolled in colleges and universities. The problem is obvious. Many blacks and Hispanics have been admitted to college and university only because of AA. Though they attend college, they rarely meet the normal standards. Yet, their very presence will be used by the government to determine the hiring quota

29. For discussion of white victims of AA, see Frederick R. Lynch, *Invisible Victims: White Males and the Crisis of Affirmative Action* (Westport, Conn.: Greenwood Press, 1989), and the chapters on AA in Taylor's *Good Intentions, op. cit.*

30. J. Edward Kellough, *Federal Equal Employment Opportunity Policy and Numerical Goals and Timetables: An Impact Assessment* (Westport, CT: Praeger, 1989), p. 5ff. Cf. also my review of this book in *Continuity* (Fall-Winter 1991), pp. 124-29.

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for more minorities at higher levels in business and government.[31]

Finally, there is another problem with Ezorsky's polemic. Most of her book concerns AA for blacks, but when she quotes W. J. Wilson, who opposed AA because it only benefits a minority, Ezorsky retorts that AA programs "benefit not only blacks but other minorities and women, who are over 50 percent of the population" (72). But why should a Chinese immigrant receive preference? Why should a Haitian just off the boat receive a preference over a native American white searching for a job in Miami? Why should a West Indian born to privilege receive AA preference over native American whites seeking to teach English at a Midwestern university?[32]

Ezorsky defends all such AA preferences by maintaining that American blacks were so badly exploited in slavery and its aftermath that compensatory action through AA is ethically warranted. When America declared its independence in 1776, slavery existed in most of the 13 colonies, North and South. Americans voluntarily abolished slavery in most states by 1860. In the American Civil War slavery became the crucial issue. Americans paid for slavery, in the bloodiest war this nation has ever known. More Americans, and more white Americans died in the war to free the slaves than in any other war in which the country fought. The slaveholders also paid: they lost the war, some lost their lives, and all had much of their property (especially, slave "property") confiscated. Abolishing slavery was the largest confiscation of private "property" ever decreed in the US. Moreover, recognizing that many former slaves were in need of help, the federal government created the Freedmen's Bureau to aid blacks after the Civil War. Northern private and religious groups, black and white, also contributed to help the former slaves adjust to freedom. Slavery is now long past, and the debts of slavery have long been repaid.

Furthermore, though blacks suffered in American slavery before 1865 and under legalized segregation until the 1960s, they also flourished. Moreover, blacks have multiplied in the America of plenty, from 757,000 in 1790 to 30.7 million in 1990, a growth of 4,000%. American blacks are now a more populous group than blacks in all but three sub-Saharan African countries. As a group, Afro-Americans are certainly more prosperous than blacks in any sub-Saharan nation. Obviously, for many African slaves who were bought in Africa and

31. Baruch College in New York had its accreditation deferred after the Middle States Association of Colleges and Schools ruled that Baruch did not have a sufficiently high proportion of minorities on its faculty. Cf. *The New York Times* (April 5, 1990), p. B1. Then a West Indian professor teaching in the US, a member of the panel that had ruled against Baruch, applied to fill the opening he had helped to create (and thereby increase minority representation). When this was discovered, he was criticized, for this was not only a violation of professional ethics but also a violation of the Middle States agency's own rules. He withdrew his application. However, Baruch had to promise to hire more minorities to become re-accredited, and undoubtedly other West Indians, if they applied, were given preference over native American whites. *The New York Times* (June 28, 1990), p. B2. See also *Chronicle of Higher Education* (August 15, 1990), p. 36, and (Dec. 5, 1990), p. 37.

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shipped to the New World, that change was a disaster. But their progeny in the US has prospered as have blacks in no other land. Indeed, if the ancestors of American blacks had not been bought in Africa and brought to the New World to flourish, those descendants might have remained in Africa and starved.[32]

Blacks have been slaves, and so have Jews, Greeks, English, Germans, Slavs, Arabs, American Indians. What people has not endured some form of slavery? The point is not to dwell upon slavery as an excuse for present failures, but to stand as equal. As enunciated in the American Constitution, the Civil Rights Acts of 1866 and of 1964, the role of government is to treat its citizens equally, with preferences for none and equal opportunity for all. Ezorsky and the defenders of AA reject that. They favor preferences for this group, then that group, and the other. Their objective is proportional representation in the work place, universities, boardrooms, and some even demand it in the US Senate. Everyone is designated by group, and is to be rewarded preferences, or hindrances, according to the group he is assigned. Though Ezorsky would probably oppose having Jews also classified and designated a "fair share," her argument contains nothing against such a classification. Indeed, already one New York City college has a 7.5% quota for Italian-Americans.

AA defenders see America not as one nation of individuals, but as an aggregation of contentious racial, ethnic, linguistic and even religious groups. Their view is of a nation representing such different corporate groups, by quota, guaranteeing each its "fair share." Their view is not that of the traditional American nation but, instead, that of a corporate state such as fascist Italy. AA is in the tradition of Nazism, Communism and Fascism. At present, AA is America's only legalized institutional racism and sexism. Though today AA discriminates chiefly against white males, in the future it could be used to discriminate against members of other groups. The only way to avoid the abyss of AA is to return to the ideals of a color-blind US Constitution.

Hugh Murray

32. "CBC Sunday Morning" (Canadian Broadcasting Corporation) produced an hour-long documentary on the Nova Scotians of Sierra Leone (broadcast on Wisconsin Public Radio, December 20, 1992). The program emphasized the importance to Sierra Leone of the community of blacks who had returned to Africa from Nova Scotia. One African related the story that had become a legend in the 19th century, about a young man, sold into slavery in West Africa and transported to the US to work on a plantation prior to the Civil War. He escaped from his American slave-owner and fled to relative freedom in Canada. But he, like other Nova Scotian blacks, decided to leave Canada for Sierra Leone. Back in Africa, he was informed that the African who had sold him into slavery was still alive in a nearby village. The Nova Scotian searched until he found the African slaver, and spoke. "I came to thank you. I know that when you sold me into slavery, there was evil in your heart. But as a consequence of your deed, I am a new man. I have been saved through the blood of Jesus. Had you not sold me into slavery, I would not have been saved." Such a story is so politically incorrect, it is inconceivable that it could be broadcast on American network television.

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Jewish Consciousness in Germany Today

Henryk Broder, *Der ewige Antisemit: Über Sinn und Funktion eines beständigen Gefühls* (Frankfurt a/M: Fischer, 1986).
Barbara Honigmann, *Roman von einem Kind: Sechs Erzählungen* (Frankfurt a/M: Luchterhand, 1986).
Ralph Giordano, *Die zweite Schuld oder von der Last Deutscher zu sein* (Frankfurt a/M: Fischer, 1987).
Rafael Seligmann, *Rubinsteins Versteigerung* (Frankfurt a/M: Eichborn, 1989).
Rafael Seligmann, *Die jiddische Mamme* (Frankfurt a/M: Eichborn, 1990).

The more Germans become normal, the more Jews feel paranoid. These two tendencies best describe the conditions of Jews in Germany today. Some German Jews maintain there is even a "new" awareness among Jews since 1984 as a response, first, to the putative anti-Semitic endeavor to produce Rainer Werner Fassbinder's provocative play, *The City, Garbage, and Death* (*Die Stadt, der Müll und der Tod*) in Frankfurt and, second, to the successful but disgraceful 1985 commemoration ceremony in Bitburg, where former President Reagan and Chancellor Kohl honored those German soldiers, including SS troops, who fought valiantly for the Nazis in WWII. Indeed, as Micha Brumlik states: "The 'Historians' Debate' and the debates regarding the possible establishment of a memorial for all the dead of WWII — for Wehrmacht soldiers as well as concentration camp victims — indicate once again that a forced reconciliation and compulsive normalization have been intended by the West German government and circles close to it since the mid-1980s. These attempts have resulted in a new consciousness among Jews in Germany, who have constituted themselves into a self-conscious minority."[1]

Yet, it is not entirely clear that there is a "new" consciousness among Jews in Germany. Adjectives that may better describe Jewish self-awareness in Germany are "heightened," "different," "shifting," or "defiant." *New* is the *behavior* of today's Jews from different backgrounds and generations who have joined in protests against German discrimination and insensitivity during the 1980s, which critics have called "honorable and unconscious anti-Semitism." Also new is a more liberal stance in previously conservative Jewish communities

1. See *The Situation of the Jews in Today's Germany* (Bloomington, Indiana: The Jewish Studies Program of Indiana University, 1991), p. 13.

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that were run autocratically and linked to interests close to both the Bonn government and the state of Israel. The fact is: Jews in Germany have always been aware of their dilemma but always reacted with anxiety and skepticism to the way the "Jewish question" was dealt with. Emphasis should be placed on the word *reaction*. Instead of taking the initiative, which many Jews tried to do between 1945 and 1950, most Jews who remained in Germany after the Holocaust *reacted* to conditions determined by the German government and their own organizations or refused to have anything to do with the Jewish community. With few exceptions, Jews in Germany did not reveal much about their awareness or seek to articulate it until the end of the 1970s. The consciousness was there, but fear of exposing themselves to anti-Semitic attacks and a lack of viable venues to voice what they felt and knew led most German Jews to keep a low profile.

Brumlik points to the Fassbinder scandal and the Bitburg fiasco as turning points with regard to a new Jewish consciousness. Yet there were and are many kinds of Jewish consciousness, all sensitized by issues of anti-Semitism and attitudes toward the Holocaust. These different kinds of Jewish awareness were tempered by self-restraint until the telecast of the American TV film "Holocaust" in 1979. This film engendered a massive emotional response about the treatment of Jews during the Nazi period by hundreds of thousands of Germans,[2] and moved many Jews to air their private concerns in public, many for the first time. What was new was not so much their consciousness but the way Jews began *conducting* themselves, the manner in which they decided to articulate their consciousness and organize around their interests. If indeed there was a *new* Jewish consciousness, it consisted in a conscious strategy to guarantee that they could live a tolerable life in Germany. After all, by 1980, the Jews who were in Germany had made a decision to stay and to regard Germany as their country. Brumlik uses the discreet term "Jews in Germany," rather than German Jews. However, a comparison with the demographics of Jews in Germany during the first three decades of the 20th century shows stunning similarities about the historical formation and mix of the Jewish population. Just as there are presently assimilated and religious Jews born in Germany, Eastern European Jews from all regions including Russia, Israelis, who go back and forth to Germany, and Iranian Jews, all living and seeking to define themselves as Jews in Germany today, there were similar groups during the period from 1900 to 1933. There was never a "pure" German Jew, nor is there one now. But there were and are German Jews, and they began playing a more provocative and public role in 1980 to demonstrate *different* interests and experiences.

Clearly, this *new* interventionism has added a significant dimension to the consciousness of German Jews and has deepened their understanding of what

2. Cf. Peter Märthesheimer and Ivo Frenzel, eds., *Im Kreuzfeuer: Der Fernsehfilm 'Holocaust'. Eine Nation ist betroffen* (Frankfurt a/M: Fischer, 1979) and Friedrich Knilli and Siegfried Zielinski, eds., *Holocaust zur Unterhaltung: Anatomie eines Bestsellers* (Berlin: Elefanten Press, 1982).

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it means to stay in Germany. They feel responsible (and guilty) for the way Germans as a nation act in international affairs, respond to Israel, and treat Jewish concerns within Germany. To make their concerns known, they have developed various strategies through films, television, books, journals, etc. There are two distinct aims in these strategies: 1) to impress on Germans what it has meant and means to be Jewish in Germany and thus to undermine Jewish stereotypes and to expose new forms of German anti-Semitism; 2) to formulate what it means to represent Jewishness in Germany and whether it is meaningful to live in a perpetual dilemma.[3]

The Socio-historical Context

Before discussing these authors' narrative strategies, it is useful to outline those socio-historical factors which during the 1980s resulted in these authors' going public with their views, i.e., to insist that the Jewish perspective be included in public debates and official decision-making. More than any incident

3. The dramatic increase in the amount and variety of publications by German Jews since 1980 is indicative of how crucial it has become for German Jews to voice their views. For instance, there are: 1) new journals and magazines such as *Babylon: Beiträge zur jüdischen Gegenwart* (founded in 1986), which appears semi-annually and addresses an intellectual readership; *Semit* (founded in 1989), a critical quarterly, which addresses a broad Jewish audience; and *Tachles* (founded 1989), an independent quarterly, which seeks to appeal to the younger German Jewish readers as a critical forum; 2) scholarly books which explore cultural problems and developments of German Jews such as Klara Carmely's *Das Identitätsproblem jüdischer Autoren im deutschen Sprachraum: Von der Jahrhundertwende bis zu Hitler* (Königstein/Taunus: Scriptor, 1981) and Karl Grözinger's *Judentum im deutschen Sprachraum* (Frankfurt a/M: Suhrkamp, 1991); 3) literary analyses of German-Jewish authors such as Gunter Grimm and Hans-Peter Bayerdörfer's *Im Zeichen Hiobs: Jüdische Schriftsteller und deutsche Literature im 20. Jahrhundert* (Königstein/Taunus: Athenäus, 1985) and Marcel Reich- Ranicki's *Über Ruhestörer: Juden in der deutschen Literatur* (Stuttgart: Deutsche Verlags-Anstalt, 1989); 4) critiques of new forms of anti-Semitism such as Micha Brumlik's *Der anti-Alt: Wider die furchtbare Friedfertigkeit* (Frankfurt a/M: Eichborn, 1991); 5) histories and documentary studies of Jewish life in the Federal Republic, the German Democratic Republic, and Austria since 1945 such as Micha Brumlik, Doren Kessel, Cilly Kugelmann, and Julius Schoeps, eds., *Jüdisches Leben in Deutschland seit 1945* (Frankfurt a/M: Athenäum, 1986); Günter Gorschenek and Stephan Reimers, eds., *Offene Wunden — brennende Fragen: Juden in Deutschland von 1938 bis heute* (Frankfurt a/M: Knecht, 1989); *Jüdisches Leben in der DDR* (Frankfurt a/M: Athenäum, 1989), by Robin Ostow, and *Unzuhörig: Österreicher und Juden nach 1945* (Vienna: Licker, 1989), by Ruth Beckermann; 6) autobiographies by German Jews of the older generation such as Liselotte Deutschron's *Ich trug den gelben Stern* and the younger generation such as Lea Fleischmann's *Dies ist nicht mein Land: Eine Jüdin verläßt die Bundesrepublik* (Hamburg: Hoffmann und Campe, 1980); 7) Reportages such as Peter Sichrovsky's *Wir wissen nicht was morgen wird, wir wissen wohl was gestern war: Junge Juden in Deutschland und Österreich* (Cologne: Kiepenheuer & Witsch, 1985); 8) Political analyses such as Michael Wolffsohn's *Ewige Schuld? 40 Jahre deutsch-jüdisch-israelische Beziehungen* (Munich: Piper, 1988); 9) Novels and stories such as Jurek Becker's *Bronsteins Kinder* (Frankfurt a/M: Suhrkamp, 1986), Rafael Seligmann's *Rubinsteins Versteigerung* (Frankfurt a/M: Eichborn, 1989), and Maximilian Biller's *Wenn ich einmal reich und tot bin* (Cologne: Kiepenheuer & Witsch, 1990).

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in Germany itself, the Israeli invasion of Lebanon and the massacres at Sabra and Schatilla in the fall of 1982 caused a major shift in attitudes toward German Jews. Ever since the 1967 Israeli victory over the Arabs, there had been a gradual change in the West German public image of Jews. In positive and negative ways, German Jews were equated with Israelis, who in turn were all equated with Zionists. After 1967 Zionists were gradually branded as imperialists, and, by the most extreme groups on the Left and on the Right, as racists. In short, by 1982 the Lebanon debacle allowed Germans, no matter what their political persuasion, to point to all Jews as potential fascists and, later, to the statement allegedly made by Günter Rühle during the Fassbinder affair, "Jews will be treated like everyone else," implying that the previously closed season for hunting Jews had now finally opened. Given the close relation between German Jews and Israel in the minds of most Germans,[4] the 1982 Israeli action cleared the way for Germans to criticize and attack Jews openly and in clearly anti-Semitic ways and to begin to "normalize" history by creating conditions of social amnesia.

For instance, Edgar Reitz's 1984 TV mini-series "Heimat," which focused on the history of a proto-typical German village from 1918 to the present and was telecast to millions, did not show one anti-Semitic scene or Jew while presenting a panorama of German society. Reitz, who wrote and directed the script, stated that he had produced the series in response to the melodramatic American "Holocaust," which he likened to a typical commodity of the culture industry. No matter what one can say about the sentimentalism and shortcomings of "Holocaust," it provided sufficient material for a full discussion of the Jewish question during Nazism. What we are left with in "Heimat," despite its artistic virtues and unusual approach to nonsynchronicity (*Ungleichzeitigkeit*) in German history, is an image of German victimization — a theme that minimizes the Holocaust and is at the heart of all the major incidents that have disturbed German Jews during the 1980s: Germans were somehow victimized by Hitler and Nazism and threatened by Stalin and communism, and it is time that they took pride in their efforts to establish a democratic model nation.

The shift from Jewish victimization to German victimization or identification with victims of Jewish persecution such as the Arabs, became pronounced during the 1980s. Thus, it is not by chance that Rühle endeavored to produce Fassbinder's play which, among other things, accuses a rich Jew of victimizing Germans and holding enormous power in a city like Frankfurt. In the same year, Kohl and Reagan gave their benedictions to German soldiers killed in WWII. In 1986, Habermas opened the "Historians' Debate" to challenge the revisionist perspective of Nazism by such historians as Andreas Hillgruber, Ernst Nolte, and Michael Stürmer, whose conclusions point to the Germans either as heroes in their fight against communism and a Jewish threat or as innocent victims of a war they did not understand. On November 10, 1988, Philipp Jenninger delivered a memorial speech in Parliament to commemorate *Kristallnacht*, in which

4. Cf. Wolffsohn, *Ewige Schuld? op. cit.*

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he stated: "As for the Jews, after all, had they not in the past, sought a position that was not their place? Must they not now accept a bit of curbing? Had they not in fact earned being put in their place? And, above all, apart from the wild exaggerations which were not to be taken seriously, did not basic points of the propaganda reflect one's own speculation and convictions?"[5] Although Jenninger had not intended his remarks to be viewed as his present views, they were nevertheless interpreted as anti-Semitic and caused a major scandal in Germany. The unification of Germany in 1990 brought about anti-Semitic demonstrations by skinheads and a rise of neo-Nazism that has Jews and other minority groups living in fear of indiscriminate attacks. Finally, the Gulf War made it clear to German Jews that neither the Left nor the Right cared about the fate of Israel. While the government tried to be as "neutral" as possible, various German companies rationalized their role in developing the nuclear capability of Iraq while the German peace movement minimized the threat to Israel once the Gulf War began.

Changing German-Jewish Perspectives

Perhaps the best way to gauge the German Jews' anger about insensitivity towards Jews and about anti-Semitic incidents in Germany is to read Henryk Broder's *Der ewige Anti-Semit* (*The Eternal Anti-Semite*). As the *enfant terrible* among Jewish journalists, Broder (born in 1946), the son of Polish immigrants who came to Cologne in 1958, has never been one to hold his tongue. In 1979, he co-edited *Fremd im eigenen Land*,[6] one of the first anthologies of essays by Jews, who described their experiences of living in West Germany. Since that time, he has become involved in almost every major debate concerning Germans and Jews, even though he emigrated to Israel in 1981. Writing in the tradition of Heinrich Heine, Kurt Tucholsky, and Karl Kraus, Broder has little tolerance for hypocrisy. During the Gulf War, he exposed Christian Ströbele, leader of the Green's delegation, which made a trip to Israel, for unconscionable remarks that implicitly supported a policy of annihilation of Israel and revealed how the Left has managed to avoid dealing with anti-Semitism despite its anti-fascism.[7] If anyone has helped raise public awareness about the dilemma of Jews in Germany today, Broder must be given a great deal of credit. In *Der ewige*

5. Cited in Judith Miller, *One, by One, by One: Facing the Holocaust* (New York: Simon and Schuster, 1990), p. 52.

6. Edited with Michael R. Lang, *Fremd im eigenen Land: Juden in der Bundesrepublik* (Frankfurt a/M: Fischer, 1979).

7. Henryk Broder, "Die treudeutschen Dummheiten des Gesinnungsidioten: Interview mit Christian Ströbele," in *Semit*, No. 2 (1991), pp. 10-12 and 86. More recently, he has published an account of how two German Jews have swindled the Adass Jisroel congregation in East Berlin and have become virtual owners of the congregation's restored cemetery and meeting hall. See "Tote Seelen in Berlin oder: Die wundersame Wiederauferstehung der jüdischen Gemeinde Adass Jisroel als Familienbetrieb — eine deutsch-jüdische Posse aus der Wendezeit," in *Zeit* No. 40 (October 4, 1991), p. 16.

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Anti-Semit, he criticizes the Germans' general assumptions that perpetuate false notions about Jews and keep anti-Semitism alive. Written during 1985, the book is a reckoning with Germans after the Fassbinder scandal and Bitburg; it is a refusal to be defined by Germans or to be stigmatized. Each chapter exposes the contradictory attitudes of Germans toward Jews and seeks to reveal how and why anti-Semitism continues in Germany.[8]

Broder opens his book by commenting on the different attitudes toward Auschwitz held by Germans and German Jews: "a person can be against Auschwitz and, nevertheless, be an anti-Semite. Moreover, the condemnation of Nazi anti-Semitism is a necessary prerequisite for the evolution of a 'clean' anti-Semitism, which does not want to let itself be discredited by Auschwitz and the Nazis from the outset. Jews as well as anti-Semites circle around Auschwitz, as if it were an alibi with which the Jews want to prove their anxiety on the one hand, and the Germans, their innocence, on the other. The reassurances that it is hardly imaginable today that a Holocaust could repeat itself in this country only reveals the fear that it is indeed possible" (12). This possibility is tied to the existence of Israel. Since Germans have made it clear that they are against the Holocaust, they believe that they have dealt with their anti-Semitism and put the fascist past behind them. Yet, according to Broder, this "liberation from the guilt of the past" is really a repression that allows anti-Semitism to continue. Broder documents this and demonstrates how religious and racial hatred toward German Jews is disguised and legitimated by Germans, who take a stand against the imperialist and racist state of Israel. German Jews are generally identified with Israel and thus considered responsible and/or guilty for crimes committed against the Arabs. The key to understanding German anti-Semitism today is to grasp how Germans have turned themselves into innocent bystanders by defusing the Holocaust as a phenomenon that cannot happen again, identifying with Arabs in the Middle East, and turning Jews into aggressive Israelis, who have inherited particular traits that recall stereotypical images of Jews seeking to take over the world as either capitalists or communists.

Broder argues that Israel is no different than any other nation-state, which must fight for survival and autonomy, and that Germans on both the Right and the Left conveniently overlook Arab massacres of Israelis and Arab attacks against each other while placing the blame for war in the Middle East on Israelis/Jews. The difficulty for most Germans is that they do not see how history,

8. The seven chapter headings reveal Broder's sardonic and provocative style. The headings are as follows: 1) The End of the Closed Season, or What Are Jews Afraid of Anyway?; 2) Defusing the Past, or Anti-Semitism Is When One Can Tolerate Jews Even Less Than What Is Natural; 3) The Honorable Anti-Semite or The Grounds of German History Extend to Palestine: 4) The Jews' Power, or: When Will this Criminal Organization Finally Perish?; 5) The Criminal as Probation Officer or the Germans will never Excuse the Jews for Auschwitz; 6) The Irresolution of the Jewish Question or Anti-Semites — Always Winners by a Nose's Length; 7) The Chosen People or An Empire That Cannot Be Found on Any Map.

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their own history, must be expanded to include Palestine, so that they can understand the German role in the Middle East conflict and see how their anti-Semitism has been displaced because it has never been dealt with thoroughly in Germany itself. The result for Broder is that there are anti-Semites in Germany today, who either do not admit or do not know they are anti-Semitic (91). He documents numerous incidents involving leading German political figures ranging from Helmut Schmidt, Lenelotte von Bothmer, Jürgen Möllmann, Siegfried Zoglmann, Brigitte Heinrich to Helmut Kohl that clearly show them making anti-Semitic pronouncements and/or gestures. Such anti-Semitism is tied to what Broder calls the "German Problem," not the Jewish question. "The German problem is a large one and pertains to all Germans. It is the problem of the criminal who has named himself to be the probation officer so that he will not relapse into crime and it is the problem of a morality that turns the guilt around and constantly looks for evidence which shows that others are even worse" (125-26).

Given this dilemma, Broder claims that a special component of German anti-Semitism has arisen not in spite but because of Auschwitz: the final solution did not lead to breaking down anti-Semitism but actually intensified it. In order to demonstrate their innocence and clear German history of its tarnished past, Germans have had to go on a permanent search for the guilty Jew (148).

Broder cites various incidents during the 1970s and 1980s showing how anti-Semites in Germany have played upon traditional stereotypes to make it seem as though Jews have resumed criminal and immoral actions that the Nazis actually tried to stop but failed. Now, allegedly, the Jews are at it again and, thanks to Israel, they are in an even stronger position to succeed. Such an ideology demands action and, for German Jews, reveals why anti-Semitism is a constant reality, whether they live in Germany or in Israel. Broder ends his book (completed in Jerusalem December 31, 1985), with the remark: "It is entirely possible that I am paranoid. Nevertheless, they can be after me" (288).

The thrust of Broder's book is indicative of numerous German Jews, born after the war, who refuse to allow Germans to define their situation for them. Broder's position (not his style) is similar to that of numerous other German Jews of his generation such as Lea Fleischmann, Dan Diner, Micha Brumlik, and Cilly Kugelmann and others around the journal *Babylon*: their works are meant to intervene in contemporary debates about the Jews and Israel and to contribute toward understanding how anti-Semitism and discrimination are perpetuated in Germany.

Even members of an older generation such as Ralph Giordano (born in 1923), have taken the offensive, and his book *Die zweite Schuld oder Von der Last ein Deutscher zu sein* (1987) is his endeavor to intervene in the notorious "Historians' Debate." This type of intervention is not new to Giordano. The son of a mixed marriage between a German of Italian/Swedish descent and a German-Jewish woman, Giordano managed to survive the war in Hamburg and was active in the Communist Party until 1957. As a journalist and TV documentary

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writer, he has played a critical role in German politics. In 1982 he published a long autobiographical novel, *Die Bertinis*, which was made into a poignant film by Egon Monk in 1988 and depicts the history of Giordano's ancestors and how Giordano's family survived the Nazis. This book, however, was a prelude, to *Die zweite Schuld*, which reads like an agit-prop textbook of contemporary history for young Germans. Giordano maintains that the first guilt of the Germans stemmed from their involvement in Nazism, and that the *second guilt* has to do with the repression and denial of the first: "It (the second guilt) has helped stamp the political culture of West Germany — a mortgage which will take a long time to pay off. The fact is that it is not a matter of a mere rhetorical process or a sequence of events that can be dealt with quietly. Rather, the second guilt has eaten deep into the social body of the second German democracy. At the core of everything is what is called in this book 'the great peace with the criminals' — the cold amnesty granted them through federal laws and through the almost constant social, political and economic incorporation during the first ten years of the new history of the state. The second code word, like a thread that runs from the first to the last page, is the 'loss of humane orientation' — a deficit that has its origins in the history of the German empire and continues to have an impact up to the present" (11).

Strongly influenced by the Mitscherlichs and by Jörg Friedrich,[9] Giordano recapitulates major developments in the repression and denial process after 1945 that has created a huge burden for the new generation of Germans, the target of his book. Some of the points he stresses are well known: 1) there was very little resistance to Hitler during the 1930s; 2) major criminals responsible for Nazism went unpunished after 1945, and the denazification process did not break down because of American unwillingness to carry it through, but because of the Cold War; 3) almost 99% of the judges who helped make the Nazi judicial system work continued to "execute" the laws in West Germany; 4) the power of the Christian Democratic and Christian Socialist hegemony up to the present continues the traditional conservatism dating back to Bismarck; 5) the Wehrmacht was just as responsible for Nazi atrocities as the SS and SA, and the dichotomy that has been made between the good ordinary German soldier and the evil exceptional SA trooper is false; 6) just as anti-communism was used in West Germany to apologize for and conceal the Nazi past, the anti-fascist policies of the German Democratic Republic were employed to rationalize Stalinism and conceal the anti-Semitism of the Communist Party throughout the Eastern Bloc; 7) while the notion of collective guilt has always been rejected by most Germans, so-called German refugees from Poland, Silesia, and Czechoslovakia, have always sought to blame Czechs and Poles for their displacement on implying that they have a right to claim property

9. Alexander and Margarete Mitscherlich, *Die Unfähigkeit zu trauern: Grundlagen kollektiven Verhaltens* (Munich: Piper, 1967), and Jörg Friedrich *Die kalte Amnestie: NS-Täter in der Bundesrepublik* (Frankfurt a/M: Fischer, 1984).

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from people whom they have persecuted; 8) left-wing international terrorism had nothing to do with socialism but led to the curbing of democratic rights and freedoms and the increase of authoritarian police measures throughout West Germany. Clearly, Giordano's "history" of postwar Germany overemphasizes the dark side of the developments that have led to Helmut Kohl's proposal for a temple honoring WWII victims, his Bitburg commemoration, his endeavor to create a museum of German history in Berlin, and his desire to normalize German history. This slant enables him to raise questions about the insensitivity of Germans, prototypically represented by Kohl, to the true victims of Nazism, which are not only Jews, gypsies, homosexuals, and millions of Eastern Europeans, but the young Germans who, Giordano argues, have suffered and will continue to suffer from the socio-psychological processes to which they have been subjected. His book is thus not a moral attack but an endeavor at consciousness raising and determined by his own commitment to a German-Jewish dialogue.

Clearly, the different experiences of growing up in Germany have led German Jews to stake out their positions with regard to raising the consciousness of Germans. Given the fact that most have spent their formative years in West Germany and that there are less than a thousand in East Germany, most recent publications have been by West German Jews. Of course, there have been significant works by East Germans such as Stefan Heym's *Der König David Bericht* (1972) and Jurek Becker's *Bronsteins Kinder* (1986), which have dealt with Jewish topics, but it has only been in recent years that German Jews have begun to document their experiences about growing up in East Germany. One of the more interesting accounts is Barbara Honigmann's *Roman von einem Kind*, curiously subtitled "six stories." In fact, the book is not at all a novel but a series of ruminations in which Honigmann reflects about events that led her to convert to orthodox Judaism and to emigrate to Strasbourg in 1984. Born in East Berlin in 1949, Honigmann was the daughter of exiled German-Jewish communists, who returned to East Germany to build a socialist state. Like many other children of privileged communist bureaucrats denied their Jewishness, Honigmann led a deprived childhood. She was obliged to live through the contradictions of her parents, who fled Nazism only to return to another totalitarian state, which the parents refused to recognize as such. Honigmann, however, does not deal directly with these problems. Her book is more contemplative, evocative and lyrical. Her starting point is Strasbourg and she recalls, with a sense of naiveté and astonishment, why she began to regain a sense of her Jewish identity and had to leave East Berlin. The first section is written in the form of a letter, which begins, "Dear Josef, I'd like to write you a letter. A long letter which covers everything. As long as a novel. A novel by a child" (9). But Honigmann, who is also a painter, writes neither a letter nor a novel. Her novels are like her paintings, filled with impressions, from which one gathers through episodes of her life how alienated she was in East Germany. A single mother with a three-year-old son, Honigmann keeps reaching out for a community

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impossible to restore, even though she does re-establish her ties to the older members of the small Jewish congregation in East Berlin. There is an incident, the second in her book, entitled "A Postcard for Mr. Altenkirch," which has nothing to do with her Jewishness and yet everything to do with her reaching out for a Jewish community that best describes what led to her need to develop a Jewish identity and leave East German. Here Honigmann depicts her first year as a young dramaturg in Brandenburg, where she rented a furnished room from a certain Herr Altenkirch, old and thin, who provided her with breakfast, polished her shoes, and often talked about her work at the theater. Herr Altenkirch was accustomed to having boarders stay with him for short periods of time, and when they left they would stay in touch occasionally by sending a postcard from some other city. Honigmann, too, when she is forced to leave the city with a group of actors and directors who rebel against official governmental censors, promises herself that she will also send him postcards. "In the meantime so many years have passed. Mr. Altenkirch is now certainly dead, and I never wrote that postcard. I don't know why. Simply because . . . because. . . and because." (49). The only thing that Honigmann can do is to imagine Herr Altenkirch's disappointment and to apologize.

It is the destruction of community and culture that apparently causes Honigmann's paralysis and the abandonment of Herr Altenkirch. The effort to establish a sense of community in which ideas can be exchanged and developed is continually undermined by political conditions that sap people's energies. In the next chapter, "Wanderung," Honigmann describes a series of hikes with friends leading mainly to arguments and bickering, and her separation from the group. This "wandering" is followed by the section "Doppeltes Grab," in which she and her husband Peter visit the Jewish cemetery with the renowned Jewish scholar Gerschom Scholem, who advises them to leave Germany if they want to learn about the Torah. "Jersualem would be good, New York would be good, London would be good, but Germany is no longer good for Jews. One can no longer learn anything here. Consequently there is no sense staying. It is much too difficult. I do not know how you can get out of here, but I would think about it in your situation" (94). Scholem dies later that year and a gravestone marks his death with the rest of his family in East Berlin. But Honigmann leaves and settles in Strasbourg, where she writes her last chapter "Bonsoir, Madame Benhamou," describing her thoughts while on her bike heading for her Torah and Talmud lesson with Madame Benhamou and several other women. It is as though she had always done this, had always had this place, and yet it feels to her like a triple jump of death without a net, like a trapeze artist.

But Honigman is also an escape artist, who lives to describe the process that she went through to gain a sense of who she is and what she wants to do. Like all quests for identity, it is an unfinished one, and yet, for her as an East German Jew, the process is markedly different from most Jews in West Germany, for it has involved a recognition of her Jewishness and a decision to commit herself to Judaism, which involves emigration to France.

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Honigmann's revelations about her awareness as a Jew are in marked contrast to Rafael Seligmann's fictitious 'confessions' in his two autobiographical novels *Rubinsteins Versteigerung* (1989) and *Die jiddische Mamme* (1990). Born in Israel in 1947, two years before Honigmann, Seligmann was taken to Munich by his family in 1957, where he spent his formative years and then became a journalist and editor-in-chief of the *Jüdische Zeitung*. At present he is an academic councillor at the University of Munich and a free-lance writer. Both his novels focus on bitter-sweet relations with Jewish mothers. In *Rubinsteins Versteigerung*, a first person narrative in the American-Jewish tradition of Philip Roth's *Portnoy's Complaint*, Jonathan Rubinstein, a 21-year old *Gymnasium* student, complains about how his parents had schlepped him to Naziland to suffer all types of anti-Semitic and sexual humiliations. The episodic chapters of the book focus on his endeavor to establish his first love relation with a "good" Jewish girl that will please his mother. However, after numerous mishaps, he falls in love with a Schickse named Susanne, whose father was in the SS. Naturally, this relation is intolerable for Mrs. Rubinstein, and she consequently destroys any hopes for its future by causing Susanne to terminate the relation with Johnny, who becomes desolate. The novel ends with his father breaking down the door to talk to him while he lies crying on his bed. "He hesitates briefly, listens to my sobbing, and finally he breaks the glass of the door window, reaches for the key, and opens up, and rushes to my bed. 'What is the matter? What is the matter with you?' I want to answer. I must, because the answer to his anxiety-ridden question is becoming more and more clear until my conscience is completely filled out by it. *I am a German Jew!*" (232)

In *Die jiddische Mamme*, Seligmann does not vary his constellation much, nor his conclusion. His hero is now the 40-year-old Samy Goldmann, whose wife has just left him. The novel begins in the first person with him recalling an episode when he was three-years-old, naked in a bathtub with his mother, who commands him to remain in the bathtub when she gets out. However, he feels abandoned, stands up and falls out of the tub. Instead of comforting him, his mother yells at him. In fact, now she really abandons him by turning out the light in the bathroom and leaving him alone. This incident is revealed to Goldmann's therapist, Dr. Rosenfeld, who insists that it is the key to understanding all his problems with women. However, Goldmann denies this, and the rest of the novel consists of Goldmann's recapitulation of the incidents that led his wife to abandon him. His ironic first-person account is interspersed with commentaries by women, and it is clear that his life consists of a series of flights from his gentile girlfriend Karin and from his mother Bella because he fears and wants suffocation. Samy flees to Israel, where he has one affair after another, but he cannot escape his mother, who eventually arranges a marriage with Sara, a Sephardic Jew, who had consistently stated that she never had any intention of marrying him. Try as he might, there is nothing Samy can do against the united forces of his mother, aunt, and Israeli girl friend. In the end, it is clear that he is bound to be deserted and deserves to be deserted.

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Though Seligmann has a sense of humor, there is nothing humorous in these two novels. Striking in both of them are the violent family scenes between mother and son, and the pity and contempt that the son feels for his father. In addition, Seligmann indicates that young German Jewish males are powerless against their mothers and would have to live in shame and sin if they married a gentile woman. Perhaps the major complaint in both these novels is the accusation of a young Jew, born in the late 1940s, against his parents for forcing him to grow up and in live in Germany, constantly referred to as "Naziland" by Jews. While the novels end with the protagonists alone and in despair, there is a sense that Johnny and Samy will survive. That is, the Jewish male as survivor is the main theme in both novels. In a perverse sense, the heroes are boys who never grow up because they cannot separate themselves from their mothers, who cannot separate themselves from Germany, the ultimate symbol of authoritarian male law. Thus the Jewish anti-heroes are portrayed as survivors of Jewish families, in which Jewish mothers run the households like anxious probationary officers, who want to protect their sons from the vice of their environment while acting in behalf of a system that presents the danger that they dread. Put another way, the anti-heroes must survive the anti-Semitic conditions of German society that are made worse by the anti-German attitudes of their parents. No matter how one looks at the situation of Johnny and Samy in Germany, they cannot win. They cannot have a fulfilling relation with anyone, neither inside or outside the Jewish community.

In commenting on Seligmann's first novel, *Rubinsteins Versteigerung*, Gertrud Koch writes: "Seligmann condenses the frustrating experiences with Jewish daughters and mothers with Bavarian anti-Semites from the male horde of the school rooms, and with guilt-ridden female teachers as though he were writing for a gossip column. As a result, the enormous effects of sexual impotence during puberty remain artificial. The patterns that Seligmann constructs around his major figure are in each case like illustrations; they are a costume placed on top of a meager corset of action. Ultimately this is why the entire novel reads like a cynically manufactured table of contents that contains just enough explanatory parts to make the material interesting for the reader."[10]

These remarks also apply to Seligmann's *Die jiddische Mamme*. Both novels read like caricatures of a neurotic male's experience of growing up Jewish in postwar Germany. Seligmann creates a voyeuristic scenario for the readers, who are never allowed to explore the German-Jewish-Israeli complex in depth, for the first-person narrative technique is ironically employed to prevent the readers from getting to know the hero in an intimate way. Seligmann's masque conceals more than he perhaps intended, and his inability and/or unwillingness to reveal intimate details of German-Jewish life is indicative of the German-Jewish refusal to trust a public that still makes Jews feel guilt for Nazism. If one compares

10. "Corporate Identities: Zur Prosa von Dische, Biller und Seligsann," in *Babylon* No. 7 (1990), p. 139.

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Seligmann's work with the American-Jewish prototypical writings of Bernard Malamud, Saul Bellow, Philip Roth or even the screenplays of Woody Allen, it is apparent that American Jewish writers are willing to share more with their readers and can rely on a certain mutual understanding. Seligmann provides footnotes and glossaries to explain Yiddish expressions and Hebrew words in both his works. It is as though he was trying to instruct his German readers about the basics of German-Jewish relations and was unsure as to how much they could understand and how serious he could be.

To say the least, Seligmann is tentative in writing for a German public, but his tentativeness in these two novels is not entirely shared by other German-Jewish writers. Broder demands that his German readers face up to their anti-Semitism; Giordano insists that Germans come to terms with the pernicious second guilt in Germany; Honigmann employs images of isolation, alienation, and seeking to depict the necessity of departure. They all differ in their approach to the dilemma of being Jewish in Germany and addressing a predominantly gentile audience. They do, however, all share one goal: to demonstrate their German-Jewish consciousness in public and to compel German readers to reflect upon their stereotypical if not anti-Semitic notions about Jews.

For most German-Jews, Auschwitz is not over. If anything, anti-Semitism has intensified and surfaced in different forms that need to be exposed. The surfacing of new kinds of anti-Semitism have made German Jews more conscious of the necessity to develop new strategies of public intervention. During the the Gulf War, it became apparent to German Jews that neither the German peace movement nor the conservative forces had any idea of how the war was linked to Auschwitz, nor how their positions expressed anti-Semitic sentiments.[11] The Jewish response to the war and to German involvement in the war was practically unanimous: not only did most German Jews support the war, but they were stridently critical of the German peace movement and the Kohl government's initial reluctance to take a firm stand against Iraq and the German industries that had supported the Iraqi war machine. The differences between the Germans and the Jews with regard to the Gulf War are a result of the normalization of history that arose during the 1980s. As long as this normalization continues, German Jews will speak from the margins of society, but insisting that they want to remain and play a role, even if provocative and antagonistic, in determining the destiny of the new unified Germany.

Such a position is indicative of a shift in German Jewish consciousness. In a recent article in *Der Spiegel*, titled "The Jews Live,"[12] Seligmann takes issue with most Jews in Germany by arguing that it is time to stop pretending that

11. See Dietrich Schwantz, "Surrealpolitik oder die deutsche Reaktion auf den Golfkrieg im Spiegel der deutschen und internationalen Presse," in *Semit* No. 3 (May-June, 1991), pp. 7-9 and Anson Rabinbach, "German Intellectuals and the Gulf War," in *Dissent* No. 38 (Fall, 1991), pp. 459-63.

12. "Die Juden leben," 46 (November 1992), ppp. 75-8.

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the only Jews are the good, harmless Jew, the super Jew, or the revered dead Jew, and to make it clear that Jews are very much alive *in* Germany: some are nasty, filled with hate; others, more conciliatory and anxious. Whatever the disposition of German Jews, Seligmann writes, it is time to show to all Germans that German Jews refuse to go away and want to represent *not* dead Jews but Jews with a history of Auschwitz who want to work toward a different future in a unified Germany.

The key term for the new German-Jewish consciousness is Auschwitz and what it meant in the past, what it means today, and what it will mean in the future. As Frank Stern has argued, "Jews are not outsiders to the historical process, but active agents in rethinking this history. By their presence, it becomes necessary in reconceptualizing German-Jewish discourse beginning with Auschwitz. For in the beginning of the German postwar period was Auschwitz, not Adenauer or Germany's integration into the West. One ought, therefore, to read the distinct contemporary traces of Auschwitz and pursue the real historical process in the relation of Germans and Jews since 1945."[13]

Reading the traces of Auschwitz in German history has led German Jews to realize that they will always be opposed to most Germans who want to forget or reinterpret Auschwitz so that they can be proud of their "new" national identity. But it does not mean to wallow in the past and victimization, nor to point a righteous finger at Germans. Rather, it has come to mean a shift in awareness that all Jews in Germany are complicitous in the formation of a national identity and that Jews as Germans must keep pointing to Auschwitz not only as a past, but also as a present-day site on which struggles concerning anti-Semitism and xenophobia are taking place. But most important, reading the traces of Auschwitz has led many Jews born in Germany since 1945 to oppose the way Germans imagine Jews to be and to project more and more their own distinct representations of themselves and German-Jewish history through the media. Defiantly but with hope, German Jaws are no longer seeking ways to forgive themselves for forgiving the Germans for Auschwitz. Rather, today's German Jews are realizing that Auschwitz was the beginning of their attachment to Germany, and this deep attachment must be articulated critically if they are to play a role in Germany's future.

Jack Zipes

13. "Jews in the Minds of Germans in the Postwar Period," Publication of the Robert A. and Sandra S. Borns Jewish Studies Program (Bloomington: Indiana University, 1993), p. 15.

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The Politics of "Civil Society"

Ulrich Rödel, Günter Frankenberg, Helmut Dubiel, *Die demokratische Frage* (Frankfurt am Main: Suhrkamp Verlag, 1989), 219 pp.
Ulrich Rödel, ed., *Autonome Gesellschaft und libertäre Demokratie* (Frankfurt am Main: Suhrkamp Verlag, 1990), 357pp.
Jean Cohen and Andrew Arato, *Civil Society and Political Theory* (Cambridge: MIT Press, 1992), 771pp.

Ulrich Rödel, Günter Frankenberg and Helmut Dubiel, three members of the Frankfurt Institute for Social Research, re-excavated the concept of "civil society" during the disintegration of "really existing socialism." This coincided with the rise of Dubiel as one of the Institute's directors and signaled a leftward shift of some of Habermas' former assistants. It coincided with the Institute for Social Research's move away from positivist sociology to older elements of Critical Theory and the increasing influence of Dubiel. This is why *Die demokratische Frage* has been characterized as a manifesto of the "third generation of the Frankfurt School."[1] By making a strong plea — and in the German context, a novel one — for rethinking radical democracy by resurrecting republican thought and by endorsing social movements as agents of reform, it generated considerable discussions within the German Left

Insofar as one can identify the German Left's project during the last decade, it has been "red-green" — a program of social and ecological reforms, a negotiation between Social Democrats and the Greens, between the old movement (labor) and the new movements. Rödel, et al. argue that the major struggle within the German Left at the end of the decade was between the reformist "institutionalism" of Social Democracy (*Realos* Greens) and the "anti-institutionalism" (drawing on Carl Schmitt's critique of parliamentarism) of some Left radical and "fundamentalist" supporters of new social movements (*Autonomem*, some *Fundi* Greens). The theoretical task now is to combine radical civic republicanism and Habermas' Kantian proceduralism. Cohen and Arato address the same problem in their *Civil Society and Political Theory*. The choice of "civil society" as the organizing principle in such a project, however, obscures more than it clarifies. The term is used to distinguish society and the economy from the state. In contraposition to Habermas, who originally emphasized discursive realms rather than the economy of Hegel's

1. Klaus Naumann, "Mythos 'Zivilgesellschaft.' Literaturbericht zu einer unübersichtlichen Kontroverse," in *Vorgänge*, No. 6 (December, 1991), p. 65.

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"system of needs," civil societarians refer not only to such a limited domain distinct from the state and the market but to an integral part of a "system" in which "civil society," along with the state and the market, constitutes "political society." This attempt to combine Habermasian and libertarian concepts is problematic.

The claim concerning the lack of democratic theory and republican traditions in Germany ran into considerable skepticism on the part of libertarians such as Joachim Hirsch, other Left sympatherizers, feminists, the New Right, etc., who pointed to the nebulous and undifferentiated character of the concept of "civil society."[2] However, despite the efforts of Left critics to bury it with obituaries,[3] there has been an explosion of writing on "*Zivilgesellschaft*."[4] Italian writers have deployed it as a slogan for fighting the Mafia;[5] political scientists have introduced it in discussions of North/South relations and European security politics;[6] and, in general, it has become a rhetorical *passepartout* suitable for the press releases of Social Democratic Ministers. Cohen's and Arato's new treatise on the topic fits well within the context of this growth industry, since they were among

2. Joachim Hirsch, "Ein Bekenntnis zur real existierenden Demokratie," in *links*, No. 1 (January, 1990), (see also Dubiel, Frankenberg and Rödel's response, "Unpolitische Radikalität," in *links*, No. 4 [April, 1990]); Georg Fülberth, "Zivilgesellschaft als Nationalreligion," in *konkret*, No. 5 (1991); Andrea Maihofer, "Noch immer bedarf es der Zivilisierung männlicher Krieger. Einige kritische Anmerkungen aus feministischer Sicht," in *links*, No. 11 (1991); Arno Klönne, "Die Deutschen auf dem Weg in die Zivilgesellschaft," in *Blätter für deutsche und internationale Politik*, No. 9 (1990), and Eike Hennig, "Civil Society: Bloß Deckvokabel der 'Metropolenlinken'," in *links-Informationsrundbrief*, No. 86 (June, 1991) and "Vom Ende der Zivilgesellschaft," in *links*, No. 2 (Feb. 1991); Sabine Kebir, *Gramscis Zivilgesellschaft* (Hamburg: VSA, 1991); Alex Demirovic, "Zivilgesellschaft, Öffentlichkeit, Demokratie," in *Das Argument*, Vol. 33, No. 1 (Jan. 1991); Hans-Peter Krebs and Thomas Sablowski, "Zivilisierter Sozialismus?" in *Utopie*, No. 10 (June 1991); and Owe Hirschfeld and Werner Rügemer, *Utopie und die Zivilgesellschaft* (Berlin: Elephanten Press, 1991). Hirschfeld, et al. and Demirovic seek a middle ground between Gramsci and Habermas.

3. Ludi Lodovico, "Nachruf auf ein Phantom: Von Anfang und Ende der sogenannten 'Zivilgesellschaft'," in *links*, Vol. 23, No. 4 (1991).

4. Volker Gransow, "Zivilgesellschaft und demokratische Frage. Ein Literaturbericht," in *Das Argument*, No. 180 (1991) and Volker Heins, "Ambivalenzen der Zivilgesellschaft," in *Politische Vierteljahresschrift*, Vol. 33, No. 2 (1992). For a Habermasian critique of Heins, see Rainer Schmalz-Bruns, "Civil Society — ein postmodernes Kunstprodukt? Eine Antwort auf Volker Heins" in *Vierteljahresschrift*, Vol. 33, No. 3 (1992).

5. Gabriella Turnaturi and Carlo Donolo, "Familismi Morali," in Carlo Donolo and Franco Fichera, eds., *Le Vie dell'Innovazione. Forme e Limiti della Razionalità Politica* (Milan, 1988).

6. Reinhart Kößler and Henning Melber, "Afrika vor der demokratischen Frage," in *Blätter für deutsche und internationale Politik*, No. 9 (1990); Henning Melber, "Internationalismus und Solidarität — Versuch einer Standortbestimmung. Über Krieg, Zivilität und internationale Solidarität in der 'Zivilgesellschaft'," in *Blätter für deutsche und internationale Politik*, No. 8 (1990); and Reinhart Kößler and Henning Melber, "Universelle Werte und internationale Zivilgesellschaft," in *Peripherie*, No. 39-40 (1990).

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the first to deploy the concept in its Habermasian form.[7] In Frankfurt their book has been hailed as a theoretical masterpiece.

Although *Die demokratische Frage* is more derivative, it is also more interesting than the Cohen and Arato book (though the latter will likely continue to spread the term "civil society" in political science circles[8]). It deals with actual political problems, whereas in the US all discussions concerning "civil society" have remained purely academic. At any rate, both *Die demokratische Frage* and *Civil Society and Political Theory* seek a fit between the SPD and the Greens, or between parties and "social movements."[9]

Given the glamorous deployment of republican vocabulary in *Die demokratische Frage*, the etymology of "civil society" becomes crucial. This etymology is Habermasian, not republican. Originally reintroduced by Arato to analyze the politics of *Solidarność*, "civil society" reworks Habermas' notion of the "public sphere."[10] Arato went back to the three main features of Hegel's concept of *bürgerliche Gesellschaft*: 1) the "system of needs" (that feature to which Marx later reduced Hegel's concept); 2) the institutions of private law; and 3) the police and the corporations. The key Habermasian category derived from the latter: the space of public discussion or the "public sphere," i.e., those associations organized by citizens in their free time, which are not narrowly economic and exist

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7. Arato introduced the term in his analyses of Poland. See his "Civil Society Against the State: Poland 1880-81," in *Telos* 47 (Spring 1981) and "Empire Vs. Civil Society: Poland 1981-1982," in *Telos* 50 (Winter 1981-82). See also Cohen's Habermasian critique of Marxism, *Class and Civil Society: The Limits of Marxian Critical Theory* (Amherst: University of Massachusetts Press, 1982).

8. See also John Keene, *Civil Society and the State: New European Perspectives* (London: Verso, 1988); *Democracy and Civil Society* (London: Verso, 1988); and Krzystof Michalsky, ed., *Europa und die Civil Society* (Stuttgart Klett Cotta, 1991).

9. The Greens are the starting point for discussing the "democratic question" in Germany because they represent the aporias of constitutional reform and anti-statist radicalism. The Greens, so goes the argument, are caught between a radical fundamentalism opposed to the state's monopoly of violence and a *Realpolitik* which makes it impossible to devise practical reforms. While the anti-statist functionalism of, e.g., Johannes Agnoli's *Transformation der Demokratie* (1968) characterizes the anti-institutionalist view, Social Democratic traditions infect the "realist" institutionalists. While lambasting the Greens with quotations from Hannah Arendt, civil societarians obfuscate their own role in the eradication of the same kinds of republican forms which they now claim to be supporting. Joschka Fischer, the Greens' functionary best known for supporting undemocratic, oligarchic structures, has been their main interlocutor. This is ironic because Fischer has suppressed party democracy and is also one of the key figures in dismissing civil disobedience as a tactic. (Rödel, et al. share a chronic and unfortunate vice in this respect, i.e., in introducing a republican vocabulary while stamping out democracy. Ecolibertarians such as Thomas Schmid and hard-core realists like Udo Knapp or Dany Cohn-Bendit have done this as well in earlier writings for the Green and the Sponti milieu). The Habermasian establishment never took an interest in the Greens until after the Party had structured itself along oligarchic lines and ruled out the possibility of developing its own civic republican ideals.

10. Jürgen Habermas, *Strukturwandel der Öffentlichkeit* (Darmstadt: Luchterhand, 1983).

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outside the state. It was this latter point which Arato sought to emphasize in his discussion of "civil society" against the "state" in Poland: the interest in civil rights and rights of assembly, alternative public spheres and social movements, the creation of new structures of public discussion and political influence.[11] In a context where the rest of Hegel's concept of civil society — the economy, unions, publishing, the police, etc. — had been penetrated by the real socialist state, this emphasis made sense.

Having realized the political relevance of the concept of "civil society" in communist Eastern Europe through discussions with Adam Michnik, George Konrad, Ivan Szelenyi, et al. during the 1970s, Arato generalized this slogan of East European dissidents into a theory allegedly applicable to *all* societies. The original East European version of "civil society" was not theoretically sophisticated: it was merely an attempt to develop a moral position outside the communist system. Arato added the "public sphere." Within the context of rethinking the German Left in terms of a specific, Habermasian version of "civil society," Dubiel and his collegues extended the idea to Germany: to the aporias of the Left and of the Green Party, against the background of a late endorsement of the "new social movements" of the 1970s. After the collapse of the Berlin Wall, there was considerable interest in Germany to unite "citizen movements" East and West.[12] A civil society denuded of economy, trade unions, universities, publishing houses and the rest of the institutional features of Hegel's concept, however, hardly made sense within liberal nation-states in the same way it did in the old "socialist democracies." At any rate, Rödel et al. legitimate their use of the concept as something that emerged spontaneously within East European movements against the state, whereas it was Arato who developed the current notion of "civil society" in his analysis of Poland in the early 1980s.[13]

While Cohen and Arato write of the "discourse of civil society" and cite other people (O'Donnell, Schmitter, Touraine, Di Palma) who have taken up the term (75f.), they occlude the way they introduced it, while patting themselves on the back for their discursive coup.[14] Arato wrote that the term "*Zivilgesellschaft*" was coined by two writers in an obscure article in *links* to "designate something no longer captured by *bürgerliche Gesellschaft* (today the equivalent of

11. Arato, "Civil Society Against the State," *op. cit.*, pp. 24ff., and "Empire Vs. Civil Society." *op. cit.*, pp. 23ff.

12. See Rainer Deppe, Helmut Dubiel, and Ulrich Rödel, *Demokratischer Umbruch in Osteuropa* (Frankfurt am Main: Suhrkamp, 1991).

13. Rödel, et al., *op. cit.*; Deppe, et al., *Demokratischer Umbruch*, *op. cit.* As Heins notes, *op. cit.*, they do not actually cite any materials from Eastern Europe in *Die demokratische Frage*. Ironically, Cohen and Arato blur the etymology of "civil society" by claiming that "Zivilsocietät" preceded Hegel's ideal of *bürgerliche Gesellschaft* (221), while at the same time writing as if they, along with Rödel, et al., have learned about the "discourse of civil society" from East European intellectuals.

14. Indeed, even the Pope got into the act by sponsoring a conference on the subject of "Europe and Civil Society," the so-called "Castelgandalfo Conversations" with Catholics such as Charles Taylor, Owen Chadwick, Edward Shils and Böckenförde.

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'bourgeois society'), i.e., the organization of a plurality of interests outside the state in an increasing independent social sphere."[15] The "independence" of this civil society sphere, however, remains vague insofar as Arato invokes both Habermas' concept of *Öffentlichkeit* and a council communist "dual power" model rooted in the longstanding Bavarian federalist tradition.[16]

While discussing "civil society" in Eastern Europe, Rödel, et al. retranslated Arato's Habermasian version of Hegel's *bürgerliche Gesellschaft* back into German, only calling it "*Zivil*," in the sense of the legal distinction between combatants and civilians.[17] This served a useful purpose around the time *Die demokratische Frage* appeared in 1989, since the German term "*bürgerliche Gesellschaft*" had been appropriated by Marxists to mean simply capitalist society. At a time when "socialism" and the critique of capitalism had suddenly come into disrepute, it was helpful but misleading to be able to talk about Hegel without talking about capitalism. This move was not merely "tactical." The concept of "civil society" systematically turned *libertarian* into *liberal* ideas.[18] In the wake of the Greens' failure, *Die demokratische Frage* sought to re-evaluate the history of the new social movements in terms of "civil society."

Civil societarians dissolve specific concepts of political power into categories of modern sociology and systems theory. The republican ideal of freeing the space of public action, which Cohen and Arato appropriated, at least rhetorically, from Arendt, grounds their endorsement of social movements in "civil society" (221). They share Habermas' tendency to *deinstitutionalize* the concept of action, giving the term a "jello-like" quality.[19] The notion of public life it proposes

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15. Arato, "Civil Society Against the State," *op. cit.*, p. 23. The article cited is Reinhard Fenchel and Hans-Willi Weis, "Staat, Gewerkschaft, Gesellschaft," in *links* (December 1980).

16. Surprisingly, the term "*Zivilgesellschaft*," which Arato attributes to the two German writers, never appears in their article. Along with other sources Arato cites, this article merely advances a version of Ernst Fraenkel's "dual power."

17. "*Zivil*" undergoes a change in meaning first given to it by the traditional German (mis)translation of Thoreau's essay on "civil disobedience." "*Zivil*" does not have the thoroughly anti-statist sense of "civic" so central to Thoreau. Rather, it is a prefix distinguishing civilian from military elements of the state bureaucracy, along with the related meaning of being "polite" in the sense of "civilized." Given increasing skin-head violence and New Right threats in German "civilian life," the phrase "civil" or "civil society" has taken on an ironic meaning in recent discussions after Dubiel suggested that the critique of capitalism from a civil societarian perspective must "civilize capitalism till it is no longer recognizable." Cf. the collection edited by the *diskus* editorial board, *Die freundliche Zivilgesellschaft: Rassismus und Nationalismus in Deutschland* (Berlin: Edition ID-Archiv, 1992), which found the Yuppiezation of the Greens, following the success of the *Realos*, to be part of the problem in that it ignored the New Right while presupposing the nation-state as the basis for the multi-cultural society.

18. This was already evident with "eco-liberals" in the Green Party who ended up developing pro-capitalist positions subsequently taken up by the party "*Realpolitiker*." One of the key eco-liberals, Thomas Schmid, has since written his own endorsement of a "*Zivilgesellschaft*." See his *Staatsbegräbnis. Von Ziviler Gesellschaft* (Berlin: Wagenbach, 1990).

19. Micha Brumlik, "Was heißt 'Zivilgesellschaft'? Versuch, den Pudding an die Wand zu nageln," in *Blätter für deutsche und internationale Politik*, No. 8 (1991).

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subverts the idea that politics is about people gathering and deciding about their lives. Instead, civil societarians invoke the US tradition of civic action, characterized by direct democracy and populism, which the authors subsume under the project of "expanding" the public sphere. "The constitution of a *republic*" they call "the symbolic self-commitment and self-obligation of all citizens through intentional constitutional processes to create a public space for the formation of opinions and collective intentions *vis à vis* the process of *democratic* self-legislation. . . ."[20] A Rousseauean view of the public sphere as the formation of the general will is ascribed to social movements, but then they integrate that into a procedural framework of reform where social movements and their "pure republican" practices are only *catalysts* and not the end results of political action.[21] Luhmann has called this "noise" in the system.

Not surprisingly, *Die demokratische Frage* cannot distinguish between liberal and republican aspects of American political developments. To be sure, it is well known that US constitutional history mixes liberalism and republicanism. The problem is not that Rödel, et al. treat these two modes of thought as interwined, but that they embrace both seamlessly as part of some (radical) democratic idea of a "civil society." This idea, they argue, arises in the American revolution among those who are no longer "subjects" but who "go beyond mere contractual relations of market society and spin out their net of self-organized activities and associations over against a state as the sphere of power — a sphere of autonomous action, which, following the classics of modern political theory, has been called 'civil society'."[22] What they describe is closer to the "alternative" movements of the 1970s than to any classical political thinker or pamphlets from the revolutionary period. Rödel, et al. employ neither Locke's nor Rousseau's concept of civil society, but rather a questionable Habermasian version. Such a "civil society" would have been alien to the American colonists: they did *not* set aside any space between market and state as a "public sphere."[23]

In the introduction to the now defunct journal *democracy* (1981) entitled "Two People's Bodies," Sheldon Wolin noted how the "Articles of Confederation" was a document tailored for free yeoman farmers. It articulated a confederal and republican vision of new states — one abrogated by the success of the "federalists," i.e., state-builders whose constitutional vision was not predicated on a republic of yeomen, but on an *expanding* capitalist economy. To excavate historical precedents to radical democracy, such as those Wolin located in the New Left in Berkeley through to the new movements of the 1970s and 1980s, one must distinguish between the outcome of a "federalist" and a republican

20. Rödel et al., *op. cit.*, p. 40.
21. Cohen and Arato, *op. cit.*, pp. 433ff. and 463ff.
22. Rödel et al., *op. cit.*, p. 56.
23. Locke tended to use "civil society" and "political society" as synonyms, by which he meant more than what Arato and Cohen mean when they use the term "political society" rather than "civil society."

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concept of the American Republic. By making these distinctions, Wolin avoids a failure implicit in *Die demokratische Frage*. Rödel, et al. interpret the American revolutionary experience without distinction between radical republicans and state-builders, between anti-federalists and federalists, between Jefferson and Madison (61-65). Both are invoked to bolster a concept of "civil society" so wide it can easily embrace the whole spectrum of American liberalism.

This slippage arises as part of a structural ambiguity in the Habermasian refusal to make a definite "institutional" choice for a particular "form of life," except for an implicit patriotic defense of the nation-state.[24] Without detailing concrete institutions of practicing individuals, it is possible to speak about public life and collective decision-making both in a Lockean and a Rousseauean voice. However, since Locke and the liberal approach to the social contract is institutionally vague, mixing Lockean and Rousseauean elements paves the way for a deliberately *diffuse* Habermasian version of sovereignty. Cohen and Arato also do so, though they are more careful and criticize Habermas for lacking a theory of institutions. Nonetheless, they also depoliticize a republican outlook in favor of a liberal one whose institutional contours — beyond implicit support of the nation-state — are never elaborated.[25]

Die demokratische Frage provides a reading of Arendt's *On Revolution* as perhaps its central source in its account of the American Revolution without noting that she rejected the use of "civil society" to describe revolutionary politics. Not surprisingly, they consistently dissolve her located and present — being-there — sense of politics. In *The Human Condition* the chasm between a modern concept of "society" and Arendt's concept of revolutionary action is obvious. Her depiction of the "social," more accurately, the rise of the "social," is contrasted to public life whose first premise is not the *integration* but the delimitation and subordination of an interest-based concern with need and security.[26] Cohen

24. See also Cohen and Arato, *op. cit.*, pp. 599f.

25. Their analysis of new social movements draws primarily on Touraine and Tilly, both of whom have deinstitutionalized and functionalist theories of movements. Their survey of the literature fails to include any new empirical material, or even deal with professional political scientists such as Holger Bachhaus or Rainer Schmalz-Bruns, who have studied new social movements from a Habermasian perspective as levels of progressive modernization and/or democratization. See Rainer Schmalz-Bruns "Civil Society: neue Perspektiven der Demokratisierung," in *Forschungsjournal Neue Soziale Bewegungen*, Vol. 3, No. 4 (1989); Holger Bachhaus, "Abnabelung? Die Partei DIE GRÜNEN und ihre sozialbewegte Außenbezüge," in *Forschungsjournal Neue Soziale Bewegungen*, Vol. 1, No. 4 (1988). See also Ansgar Klein, "Das Projekt der Zivilgesellschaft — Anmerkungen zur Renaissance der demokratischen Frage," in *Forschungsjournal Neue Soziale Bewegungen*, Vol. 4, No. 1 (1991).

26. Arendt distinguished between need and security, on the one hand, and political life, on the other — the kernel of Aristotle's distinction between equality and domination. Along with other *Realos* (Offe, Wiesenthal) who articulate their prejudices against radical new social movements by explicitly or implicitly categorizing them as "irrational" (thus outside their rational choice models), Rödel, et al. draw arbitrary distinctions between *kinds* of politics. For example, they support the peace movement as a

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and Arato are also ambiguous on this score, although they do confront it. They note that, for a number of reasons, Arendt would have rejected the concept "civil society," e.g., because of her critique of capitalism. Yet, they complain that she "never provides us with a theory of civil society" — as if she had simply overlooked it rather than having good reasons for not doing so. Later they present her, once again, as a thinker who "offers" a "model of civil society" (567 & 603). With this kind of slippage everything begins to fall into a pool of Habermasian concepts.[27]

Many of the contributions to the "*Zivilgesellschaft*" discussion inspired by *Die demokratische Frage* appear as "critiques," either of Habermas or of his followers, but *always on their own terms*. Honneth rightly points out that the "civil society" approach tends to obscure "modern" and "ancient," liberal and republican concepts. Yet he must translate the terms he uses to describe other doctrines into Habermasian categories before he can use them.[28] This conceptual imperialism

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post-materialist "Aristotelian" social movement, while rejecting house squatters for being concerned with mere "material necessity" (26ff.). Besides the fact that, as Dan Diner has pointed out, the peace movement was largely fueled by nationalism, it is difficult to distinguish between the "Hobbesian materialist" needs of house-squatters and the peace movement people's fear of incineration. This distinction, however, is a convenient way to exclude many radical movements. Their "irrationality," however, is part of their refusal to think merely in terms of need and security but, instead, in terms of simplicity, democratic and ecological principles, and autonomy. Arendt is thus used by civil societarians as a chesspiece against alternative concerns with material life in order to further purify their own "civilized" attitude (as noted by Heins, *op. cit.*). At the same time, Rödel, et al. do not take into account the radically anti-capitalist nature of her concept of public life and her critique of the "rise of the social." Much more is at stake here. The term "new social movements" is the invention of sociologists. The movements called themselves "alternative," "citizen," "ecological," "do something (*Tuwat*)," etc. movements. This is a language of action Arendt could recognize. And the first supporters of the movements such as Hirsch initially followed this usage until drawn into the vortex of social science. The movements and the Greens were sucked in shortly afterwards. Here one must look carefully at Cohen's and Arato's claim that Arendt opposed "social movements" which "cannot reinvent or extend the public space," thus depriving "her philosophy of any possible politics" (200). One needs to take her Aristotelian physics a bit more seriously. She opposed efficient "local" movement from place to place, that of things as "mass"; her endorsement of the New Left and of the Civil Rights movement were part of her appreciation of public action as transcending necessity and transforming "social" into "public" before it begins to move — the movement of collective action and public self-education.

27. In this context of systematic ambiguity, the obfuscatory role of their ponderous neo-Kantian terminology compounds the problems. Consider the following sentence (which they must think it is important since they italicize it): ". . . the distinction between the system and lifeworld, between state, economy, and civil society, allows us to show that *it is not the emergence of the differentiated political and economic subsystems and their internal coordination through system integration that produces the 'loss of freedom,' but rather the penetration of an already modernized lifeworld by their logic, prompted by the selective pattern of institutionalization . . . .*" (448).

28. Honneth also deals with the concept of "civil society," but in Hegel's terms —

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is a byproduct of Habermas' creative eclecticism, reproduced by all civil societarians. This is particularly ironic, given that their doctrine makes "adequate" speech the centerpiece of its theoretical reconstruction. In order to "understand" Arendt, a writer extremely careful with her words, the vocabulary she employed, she must be translated into Habermasian categories: public life thus becomes the public "sphere," political forms turn into "social" institutions, and "power" in Arendt's sense translates into "power" in Weber's sense.[29]

After forcing Arendt within a framework where she does not fit, Honneth discusses her views in terms of a neo-Kantian distinction between legal and normative aspects of "civil society" or between a concept looking for a normative foundation and one based on the "sociology of domination." Arendt, however, follows Aristotle's position, which rejects the Kantian-Weberian-Habermasian distinction between positive and moral science, fact and norm, system and lifeworld. Honneth forces her into a "moral" discourse she has carefully avoided by calling her an advocate of a "community of values." Her notion of public life rejects a Nietzschean moral (*sic*) discourse of "values" altogether. She did not oppose some notion of public life as a normative "society" to a sociology of "real life" *qua* domination and a market-place of preferences. She criticizes those elements in the history of the "rise of the social" which contribute to the problem of "values." Its crisis underlies her reading of the formation of national

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as economic exchange and the formation of public opinion in which citizens move and organize themselves below the level of "action in the state." Honneth attempts to clarify the civil society discussion by distinguishing the use of the term in Locke and in Montesquieu. He runs into problems, however, insofar as he uses the Montesquieu-Locke distinction to stand for one between an "ancient" and a "modern" model of civil society — subsuming under the former model not only Montesquieu, but Tocqueville as well. To be sure, by most accounts Montesquieu was much more of an ancient republican thinker than Locke, but he also is generally regarded as a *liberal*, not a *republican* thinker. To see his work as representative of the ancient tradition is thus a bit stretched. In fact, none of the figures presented as bearers of the "ancient" model are ancient writers; and to attempt to apply the term "civil society" to Arendt, arguably the most republican, "anti-modern" or classically-oriented of the three thinkers Honneth mentions, is a hermeneutic attempt to make square blocks go into round holes. Cf. Axel Honneth, "Für die Demokratisierung im Westen unbrauchbar. Thesen zur Verwendung des Civil-Society-Modells," in *links*, Vol. 24, No. 1 (Jan. 1992).

29. Though Cohen and Arato are aware that there are sharp differences between an Arendtian and a Hobbesian-Weberian concept of power, along with all Habermasians they use the latter meaning. See e.g., p. 415, where they define the state as an institution, whose "functions are coordinated by power relations and which is defined by its monopoly on the legitimate use of force." On p. 584, civil disobedience is defined either as "discursive (a politics of influence) or nondiscursive (a strategy of power)." This later distinction between "discourse" and "power" precludes an understanding of Arendt's notion of power. Thus, on pp. 84f., Cohen and Arato avoid the Schmittian reduction of democracy to "identity" of ruler and ruled. Nonetheless, earlier they reveal their own Schmittian bias, arguing that there is no way to "conjure away the phenomenon of power or the gap between ruler and ruled . . . The struggle to acquire and use power is at the heart of the political" (4).

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and totalitarian states.[30]

"*Zivilgesellschaft*" presupposes a diffuse concept of sovereign power, which becomes evident in the civil societarians reception of Castoriadis. Rödel, in particular, takes Castoriadis to be a libertarian voice within the civil society framework. He characterizes Castoriadis in Schmittian terms, as someone with a theory of "*Zivilgesellschaft* and the sphere of the political." According to Rödel, "the political" in Castoriadis is modelled on the Greek *polis* and refers to that place where "the autonomous *Zivilgesellschaft* wields power over itself, or creates itself historically."[31] Here, Castoriadis is transposed into the civil societarian discourse by translating "autonomous society" as "autonomous civil society." As Rödel notes, Castoriadis' concept of "autonomous (civil) society" is fundamentally rooted and embodied. That this contradicts the disembodying logic of the Habermasian "public sphere" remains unmentioned.[32] For these reasons, Castoriadis defends a republican concept of public life inspired by the free city-states, i.e., those "backward" and "pre-modern" notions of embodied politics rejected by civil societarians.[33]

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30. A similar problem arises in both Honneth's and Dubiel's perspectives insofar as they are bound by a Habermasian concept of "secularization" as central to the development of the "rational" — a concept which befits the Weberian and Schmittian background of Habermasian categories. It becomes more difficult to understand republican views in this fashion, with their (generally substantive) concepts of "reason," and the issue of civic religion. Arendt did not write about American republican thinking as a "secularization" of Calvinism any more than she presented the development of public life and civic religion as a "secularization" of Homer and Greek Gods. To understand civil society as the "secularization of political power"(Honneth) or the development of the American revolution as the "secularization of the grounds of legitimation of political rule [*Herrschaft*]" is only relevant in one sense, i.e., insofar as one places all these phenomena under the old Marxist concept of capitalist expansion which viewed the French Revolution — the "bourgeois" revolution — in sociological terms as the "normative" model of "modernization." Cf. Axel Honneth, *op. cit.* In *On Revolution* (New York, Viking, 1965), pp. 183 and 158ff., Arendt noted that this version of "secular" is connected with the "rise of absolutism."

31. Ulrich Rödel, "Einleitung" to *Autonome Gesellschaft und libertäre Demokratie*, *op. cit.*, p. 16. Here Rödel insists on attributing the Schmittian expression "the political" to Arendt. She never uses the expression. Neither does Castoriadis.

32. Ironically, in one of the interviews Rödel published in his anthology of Castoriadis' and Lefort's writings, Castoriadis rejects the modern distinction between "state" and "*société civile*" in order to grasp "autonomous society." His reasons (not suprisingly, since he cites her) are similar to those for which Arendt criticized the "rise of the social," i.e., the abstract mediation of individual to state. Cf. Castoriadis, in Rödel, *op. cit.*, pp. 86f. Elsewhere he notes that the concept of an autonomy achieved through public, shared government reflected in Perikles' funeral oration is precisely that kind of wholeness which was "poisoned" by the modern distinction between "state" and "society" (p. 326).

33. Whether there has been any libertarian influence on Habermas and his followers or it is merely a matter of the influence of figures such as Rödel or Honneth, what is striking is the way in which Habermasians attempt to appropriate Castoriadis, unaware of the contradictions between his libertarian direct democratic views and the diffuse concept of sovereignty implicit in analyses predicated on the "civil society" model. Habermas tends

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Cohen's and Arato's lack of interest in civic republicanism and political freedom results from their concern with remaining "modern." Thus they begin with definitions. "Civil society" is "the sphere of social interaction between the economy and state."[34] Their geneology begins with Hegel (faulting him for not properly differentiating "civil" from "bourgeois"). Civil society achieves "differentiated" form only in Gramsci's focus on associations and Parson's idea of "social integration" through the "societal community." Cohen and Arato are open about their *geneological* reading of these texts to sift out *their* notion of civil society. They offer four long chapters on 20th century critics of "civil society." Yet, none of these thinkers, with the exception of the one from whom they have drawn their idea (Habermas), can be seen as "critics" and/or interlocutors of this concept, even in terms of a careful hermeneutics of counter-geneology. Three of them — Arendt, Schmitt, and Foucault — died before providing a critique of Cohen's and Arato's notion of "civil society"; a fourth one, Luhmann, is not a critic of anyone's concept of civil society and is engaged in recasting Parsonian functionalism with ideas drawn from Latin American biologists and contemporary systems theory;[35] and Habermas is not so much the "critic" as the source of their notion.

More generally, Cohen and Arato present 20th century social theory as a debate concerning their concept.[36] Thus a passage introducing the book's structure claims that: "The great ideals of the democratic revolutions — liberty, political and social equality, solidarity, and justice — were each embedded in totalistic and mutually exclusive utopias: anarchism, libertarianism, radical democracy, Marxism" (xi). It is difficult to argue that these ideals were "generated" by the age of democratic revolutions. Many of them were around before the mid-18th century. Further, as Arendt has noted, during this age such ideals were generated by "ransacking" the past for its republicanism. More importantly, since at least three of the mentioned doctrines develop in the *wake* of the age of democratic revolutions, it is difficult to see how these ideals were "embedded" in such doctrines.

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to characterize Castoriadis' thinking not as "Aristotelian" in the sense of Strauss or Alisdair MacIntyre, but as an extension of the emancipatory or subjective side of "Western" Marxism. This arbitrary choice of categories allows him to see only half of Castoriadis' theory, i.e., without its claim for a neo-Arisotelian embeddedness of the civic *ethos* in the civic form of life. On Habermas' and the civil societarians' reception of Castoriadis, see Jürgen Habermas, *Philosophical Discourse of Modernity* (Cambridge, MA: MIT Press, 1987), ch.11; and Ulrich Rödel, ed., *Autonome Gesellschaft und libertäre Demokratie*, *op. cit.*, which attempts to present translations of Lefort and Castoriadis as arguments supporting the centrality of an autonomous "civil society."

34. Cohen and Arato, *op. cit.*, p. ix. That Habermas has endorsed this usage suggests that it is about to become canonical. Cf. Jürgen Habermas, *Faktizität und Geltung* (Frankfurt: Suhrkamp, 1992), pp. 443ff.

35. Cf. Niklas Luhmann, *Soziales System* (Frankfurt: Suhrkamp, 1987).

36. Allegedly, the reason the concept has become so confused is because it is so "fashionable" and because of the "inadequate imagery" of activists articulating their concept of "civil society." Cohen and Arato, *op. cit.*, p. 422.

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Cohen and Arato describe one aspect of their project as "retrieving"[37] the category "civil society" from the "tradition of classical political theory." This involves attempts to "thematize a program that seeks to represent the values and interests of social autonomy in the face of *both* the modern state and the capitalist economy without falling back into a new traditionalism." Within republican strands of classical political theory there were no terms such as "values" or "interests." The former is Nietzsche's, while the latter is derived from ideas of statecraft.[38] "Social" autonomy is not a classical but a modern idea: the "differentiation" of modern constitutional forms into state and society. It signals the "liberation" of the "system" of needs from just and fair regulation by the polity, cooperative associations and the civilized family (i.e., the "private" family whose tribal, feudal and money-making tendencies are kept in check) and the transformation of the polity into the bureaucratic state — another "system" to be liberated.

Given their anxiety about reverting to "traditionalism," Cohen and Arato overlook the fact that political freedom arises with the development of collective rationality and civic personality (the individual as citizen)[39] breaking down and opposing tradition and tutelage — something which originally developed in free city-states. In a 604 page book on "civil" kinds of society/community, it is remarkable that this is never mentioned except to ridicule its particularism. One of the two references to "city-states" indicates their disregard for pre-Hegelian political thinking. They propose building a Parsonian-Gramscian idea of "civil society" on Hegel. This is the "best strategy" to "test the viability of a form of theorizing originally attached to the problems of early modern states and industrial society and based on a mode of empirical generalization whose plausibility rested on the surviving ideologies and institutions from premodern constellations such as city states, *Ständestaaten*, and societies of orders" (118).

Cohen's and Arato's disregard for political freedom can be seen in their lumping together such organizational forms but, following Hegel, privileging forms of subjection over those of freedom found in pre-modernity and early

37. Even they occasionally cannot avoid "falling back" into "anti-modernism."

38. A. O. Hirschmann, *The Passions and the Interests* (Princeton: Princeton University Press, 1977), pp. 31-40. The transformation of the term interest into self-interest, the private-individual interest of the prince and the private-individual interest of the money-maker, is at the heart not of "civil society" as freely associated individuals, but of the differentiation between state and society as the development of the national state and the capitalist economy. Its great articulators are the advocates of absolutist, princely rule and a freely expanding political economy. Locke does not use the term in this fashion, at least according to the new edition. Cf. . Laslett, ed., John Locke, *Two Treatises on Government* (Cambridge: Cambridge University Press, 1988), Second Treatise, VII, 78, lene 4, with C. B. Macphearson, ed., *Second Treatise of Government* (Indianapolis: Hackett, 1980), VII, 78. In Locke the term seems to retain the ancient singular sense of *inter-est*. The pluralization of the term seems to begin later, with Adam Smith or Hobbes.

39. In the Middle Ages, citizenship brought back the human and humanism, and not vice-versa, as Walter Ullmann made clear; the political animal is prior to man.

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modernity, despite the fact that the term "civil society" prior to Hegel would be associated with the latter. In the eight schematic pages on the idea of "civil society" prior to Hegel, one footnote underscores this bias towards subjection. Only in Italy did city-states approach full sovereignty. Thus, when the Greek concept was "more generally utilized, the feudal order of fragmented, sovereign units (patrimonial rulers, corporate bodies, towns, etc.) as well as medieval kingship and empire, all came to be described in different sources as *societas civilis sive res republica*." This development constituted a "pluralization" accompanied by a "second important shift," i.e., "the development of the *Ständestaat* in which civil or political society was organized as a type of state dualistically organized with the 'prince' on one side and the 'land,' 'people' or 'nation' on the other. . . ." This medieval view of civil society, Cohen and Arato argue, was articulated by Otto Brunner in his debates with Otto Gierke and is presented as the central medieval conception of "civil society" (85f. & 626 n.8).

Why would a Nazi sympathizer such as Brunner have tirelessly insisted on this point against Gierke? The reader is left to assume that Brunner had a better understanding of the medieval world than Gierke. The issue is more complex. Brunner shared with Gierke a critique of readings of pre-modernity based on a misplaced application of Hegel's distinction between state and society, so Gierke is *not* criticized for this point. According to Brunner, Gierke has a "comprehensive understanding of the medieval order." His problem is that Gierke has an overly "naturalistic" view of political association, and his focus on the association as *voluntary* has "liberal and democratic implications."[40] While Brunner elaborates neither of these points, the center of historical gravity in his work is Austrian feudalism of the "high" Middle Ages *ending* in the 12th century. Gierke's historical interest is in the "free" and "voluntary" participatory associations and fellowships which emerge with the city-state from the *beginning* of the 12th century to the rise of the absolutist nation-state and the subjugation of cities from the early 16th century on.[41] Following the Schmittian Brunner, Cohen and Arato focus on the transformation of princely and land-based feudalism into the *Ständestaat*, leading to a "countermovement" which begins to "reorganize 'society' against the state through associations and forms of public life that may have drawn on resources of estate independence, religious dissent and economic entrepreneurship but that embodied new egalitarian and secular principles of organization" (86f.).[42] Here the history of civic freedom developing within the medieval world disappears until it becomes part of a "countermovement of 'society' against the state," followed by the anachronistic claim that: "There is no doubt, as least as far as we are concerned,

40. Otto Brunner, *Land and Lordship* (Philadelphia: University of Philadelphia Press, 1992), p. 134.

41. Otto Gierke, *Das deutsche Genossenschaftsrecht*, Vol. 1 (Berlin: Weidmannsche Buchhandlung, 1868), pp. 9f. and 300-406.

42. Such conclusions may serve as warnings regarding synectodal generalizations on the basis of *Ostforschung*.

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that the 'society' of the Enlightenment, constituting a new form of public life, was the prototype of the early modern concept of civil society." Unless the "Enlightenment" has been moved back to the Renaissance, or early modernity means merely the 18th century, the present is again deployed as a "prototype" for the past. In other words, in moving from Austrian feudalism to the *Ständestaat* to the Enlightenment, only the latter exhibits a "new egalitarianism": jumping across these centuries in a discussion of "civil society" was only a ploy to avoid mentioning civic freedom until one comes to the newspapers and salons of Habermas' version of *Öffentlichkeit*.[43]

From Gierke's perspective, the emergence of "society" as a category in political theory arises with the private law contract. This occurs through the colonization of all other forms of fellowship or association, above all the guilds and free cities, through the concept of "society."[44] The colonization of such groups follows the subjugation of free cities and coincides, not surprisingly, with the emergence of the capitalist world-market. Gierke's federalist, civic view of the "rise of society" resembles Arendt's and helps explain why the Nazi Brunner disagreed with him. But since Cohen and Arato covertly employ Schmitt's concept of "the political," they pay this history of civic freedom no heed. Aristotle's *Politics* (along with its notion of "political community") was translated not in an Austrian court but an Italian city-state. The concept of popular sovereignty was developed there. This might have something to do with giving substance to the "civil" in society, particularly if one wants to avoid turning the "civil" into an adjective denoting the politeness of primitive accumulation by omitting sizable chunks of pertinant history. No matter where Cohen and Arato search for their concept of "society," they miss the manner in which the homogenizing differentiation of state and society, quashing many other *differentia*, coincides with the colonization of the realms of autonomous and civic association and is the story of the rise of the modern nation-state and capitalist economy. This aspect of the Enlightenment concept of "society" moves with Locke to Montesquieu to Hegel, i.e., the history of liberal thinking about the state, with the mediating role of the aristocracy in Montesquieu responsible for its "civil" quality. The history of popular movements, civic corporations, guilds, etc. has been expunged from the history of "civil society."

Civil societarians interested in dusting off Castoriadis to inspire social movements would be better served by lower expectations about Cohen's and Arato's "masterpiece." The ease with which they appropriate Castoriadis' libertarian vocabulary without taking into account his institutional presuppositions is not surprising given the manner in which the focus on "civil society" has a magnetic repulsion for the history of civic freedom, however fractured and incomplete this history may be. Overlooking this history is characteristic of a view univocally

43 Habermas, *Strukturwandel der Öffentlichkeit*, *op. cit.*, pp. 28ff.

44. Otto Gierke, *Natural Law and the Theory of Society* (Cambridge: Cambridge University Press, 1958), pp. 45ff., 102f. and 112ff.

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advocating "modernity": the delocalization of sovereignty. Habermas is explicit: a "modern" concept of popular sovereignty relies on a *diffusion* of power in the "public sphere" as a whole (in the manner of Julius Fröbel), *not* embodiment in specific plebiscitary institutions in the manner of Rousseau. Popular sovereignty becomes "detached" from such forms and is only extant as a "medium" of the "polyphonic process of opinion formation through agreement." This constitutional process "casts off (*abstreifen*) all substantial aspects of the constitutional order." It is the premise of a "post-metaphysical" concept of sovereignty.[45] With an occasional contradiction, Cohen and Arato follow him (cf. p. 228f. and 452ff.), while Rödel et al. cannot decide whether the realization of "civil society" constitutes a deinstitutionalization or a reinstitutionalization of democratic forms.[46] They give this deinstitutionalization a more fashionable and post-modern flavor by emphasizing the "plural symbolization" produced by free associations in the context of "civil society" — an approach which allows them to underscore the "symbolic" element of civil disobedience and to privilege a Social-Democratic or Green-Realist non-violent attitude towards it which they share with Habermas, Dworkin, Rawls, Wiesenthal and Offe.[47]

Privileging the uprooted, delocalizing character of modern social organizations allows civil societarians to avoid thinking about institutional prerequisites considered by Arendt, Castoriadis, Wolin and Bookchin — in order to make sense of terms such as "public sphere" or civic participation. Scale and appropriate form is largely ignored or, as with Cohen and Arato, heaved in the bucket of "outdated" features of republicanism (178ff.).[48] Civil societarians have little

45. Jürgen Habermas, "Volkssouveränität als Verfahren," in *Merkur*, Vol. 43 (1989), p. 468. See now *Faktizität und Geltung*, *op. cit.*, p. 615.

46. Rödel, et al., *op. cit.*, pp. 41f. and 114ff. For them "symbolic representation" can mean the "right to vote" as well as to collective identity. Here Rödel, et al., cannot decide whether the "civil society" they advocate is merely a "symbolic representation" or, with Castoriadis, "the permanent self-organization of society" — an ambiguity they betray by titling chapters with questions. In another essay, Dubiel is emphatic that civil society as a "public disposition" is only what is "no longer" a fixed, ordered, historically closed and as it were "corporate" unity. Cf. "Die demokratische Frage," in *Blätter für internationale Politik*, No. 4 (April 1990), p. 417. For Dubiel and Rödel, Castoriadis' ideal of constantly remaking autonomous society is thus opposed to an institutionally "fixed" realm. But Castoriadis sees political life as the constant remaking of something new. But Dubiel and Rödel see this in explicitly "fixed" institutional terms, i.e., in terms of direct participation in sovereignty.

47. The latter two were the interlocutors in Habermas' original essay on civil disobedience, and Cohen and Arato (568-590) draw this dialogue out at great length.

48. Cohen's and Arato's disinterest in free practices is evident in the manner in which they appropriate Schmitt's invidious account of democracy as "identity" of ruler and ruled, and attribute it to a "Rousseauean idea of participatory democracy" (591). Rousseau never identified ruler and ruled. Like most republican thinkers, he too had a concept of mixed constitution, and defined sovereignty in terms not of "identity" but of *reciprocity*. Aristotle called this the share or taking turns in deliberative or judicial office, a view which dissolves the notion of "rule" associated with monarchs, patrimonies and families. After mischaracterizing Rousseau's view, introducing the idea of a "council

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interest in federalism, though it is the problem arising from and not despite the views regarding the "natural" result of a fitted, "natural justice" view of public institutions.[49] They can only talk about how the "public sphere" should "expand." They are so "modern" that the terms used for the expansion of state and market are applied to that which ought to contain them. The technical-instrumental constraints on unalienated collective decision-making are avoided, those created by the state and capitalist economy never forgotten.

The defense of the "modern" as *building* the state, *accumulation* of capital and *expansion* of "civil society" appear as part of an uncritically accepted "secular" religious attitude that progress is good. Anxiety about traditionalism blocks much of the originality of the "modern." Civil societarians defend a *messianic* against a *civic* religion, i.e., the "mythology" of progress and the "end" of history. The political theory of "civil society" and its notion of multileveled "political," "economic" and "civic" modernization does just this, and it is not surprising that it defends figures such as Hegel, Parsons and Gramsci — all of whom upheld myths of this sort. In writing about Gramsci and civil society, it is easy to forget his account of Taylorism, the "Modern Prince," etc. As long as the secular God is on the march, those whose notion of "differentiation," "civic" responsibility and "democracy" looks at the civic rather than the "secular" can be shunned. Those administering the "system" and its counselors do not need to worry about the religious premises of their account of instrumental rationality. It is as if all substance and all concerns with the "way things work" can be avoided by branding them as "metaphysical."

These sort of problems reappear even in the context for which it advertises its usefulness, i.e., for understanding East European citizen movements. As Offe has pointed out, the Habermasian concept of "civil society" applied to East European countries remains vague because the new social movements in the West operated in the climate characterized by established markets and liberal-democratic institutions. The absence of these institutions makes the unconditionally anti-institutional bent to the citizen's movements in the East "all too

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of councils," an idea arising from libertarian thought which they have called "totalistic," they argue that a "real democrat" must go further and "recognize that democracy *can never be fully* institutionalized" (592). The footnote then says they have learned this not from a democrat, since even constitutional thinkers such as Schmitt recognize this "as well" (740 n.73). No "democrat" is cited. Arendt, however, is now invoked as one with the "normative" ideal of radical democratic theory.

49. More precisely, they have a Hamiltonian concept of federalism, though they invoke Arendt, who went beyond Rousseau by seeing the people "constituted in a plurality of local, regional, and national bodies politic" (p. 596). They later note the superiority of Habermas' view because it transcends "particularity," but fail to note that he rejects embodied freedom (p. 599). Their comment on federalism leading to a "national" body politic is also noteworthy, since they could not find it in her writing. Six pages later they note that there are frequently "disputes" over the proper distribution of sovereignty among "local, regional, and central deliberative bodies." The key word in their image of federalism is "central." Here lies the nationalist rub in the version of constitutional patriotism they advocate.

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understandable in view of their past experiences."[50] In the same way, in the attempts to come to terms with the new nationalist and anti-political climate characterizing the post-socialist East European countries, most observers have dropped the "civil society" approach and now focus more on the results of anomie, "familial amoralism," antipolitical sentiments, and powerlessness in creating the new nationalist climate — a Pandora's box — in Eastern Europe.[51] Arato himself never looks at the evidence suggesting that the elusiveness of "civil society" in Eastern Europe today might lie in the difficulty of using this model in changing, post-socialist countries.

The "civil society" approach is also unsuited for understanding the dynamics of nationalism and the New Right for similar reasons. It does not look at the location of the institutions of power in understanding the strengths and weaknesses of social movements. It is *fatal* to advocate further *dissolution* of communal and popular power as progressive "modernization" (428ff.). In the context of confronting issues of nationalism and xenophobia in Germany, this deinstitionalizing emphasis fits all too neatly with rising anti-political currents.[52]

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50. Claus Offe, "Capitalism by Democratic Design," in *Social Research*, Vol. 58, No. 4 (Winter, 1991), pp. 883 and 891f.

51. See Jerzy Szacki, "Polish Democracy: Dreams and Reality," pp. 715f.; Adam Michnik, "Nationalism," pp. 758-762; and Jan Urban, pp. 775f., all in *Social Research*, Vol. 58, No. 4 (Winter 1992); Elzbieta and Jacek Tarkowski, "Social Disintegration in Poland: Civil Society or Amoral Familism?" in *Telos* (Fall 1991). Arato himself offers a similar pessimistic assessment (pp. 61ff.). In the "absence" or failure ("demobilization") of civil society and the subsequent "vacuum" of political society which he sees in the last years, it becomes evident that "civil society" is no more than a synonym for social movements or the ideology, as David Ost notes, of "liberal intellectuals." See Ost, "The Crisis of Liberalism in Poland," in *Telos* 89 (Fall, 1991), p. 86.

52. The changing dynamics of autonomous social movements in Germany illustrates this problem. *Autonomen* groups seeking to defend housing projects for foreign refugees in Mannheim became embroiled in a political bind not evident in earlier movement struggles, e.g., those directed against the nuclear fuel recycling plant in Wackersdorf, Bavaria. The concreteness of the project and identifiability of its institutional causes (especially the Bavarian Government and participating power companies) made it possible for the *Autonomen* (in collaboration with the Greens, more moderate demonstrators and the local populace) to formulate goals and technical means for achieving them. Ultimately, along with the *locatedness* of the project and the perceived dangers for the local population, this is what made the coalition possible. It combined a sizable movement network with the media-microphones of the parliamentary Greens. The result was a decision to stop production and pay the British and the French to reprocess the plutonium. In the Mannheim incidents, the coalition between parliamentary and extra-parliametary groups broke down. More importantly, in the Mannheim situation the *Autonomen* deployed slogans such as "Smash the German Mob" directed against the passive and active support of skinhead attacks on the refugee housing. It was practically a declaration of war against the city of Mannheim and the neighborhoods where the events occurred. The result was constant street-fights between skinhead and *Autonomen* groups which strengthened the radical Right "Republicans" — a political degeneration recalling earlier failures in the late 1920s and 1930s. More importantly, there was a dissolution of solidarity and a specific locus of political action into a

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In an important sense, this is part of the puzzle of the new anti-political tendencies.[53] As Hirsch notes, it is extremely difficult to develop movement tactics to counter this new kind of anti-politics.[54] The disappearence of "civil society" and of the citizen movements initiative and influence — not its expansion and the constitutional rationalization of demands — is the puzzle of the "catch-up revolutions" (Habermas) of 1989-1990 in Eastern Europe. Indeed, the appearance of large-scale upheavals *without* subsequent spontaneous assemblies (the center of Arendt's concept of revolution) is a striking new development not only in the "demobilization" and "amoral familialism" in Eastern Europe but even earlier in the huge upheavals in Burma in August 1988.

The unintended consequence of this emphasis on deinstitutionalization, dispersing sovereignty into the public sphere and civil society rather than locating it in specific democratic institutions, is an unspoken and constant support of the nation-state, insofar as this institution is the one on which demands for constitutional reforms are to be directed (spurred by social movements, civil disobedience and "civil society"). This is one of the problems with Habermas' "constitutional patriotism" (and many of the unspoken salon-Jacobin assumptions in it). It may end up publicizing a "political nationalism" (to use Böckenförde's term) in a context where ethnic-cultural nationalism has already defined and occupied public opinion. Insofar as it remains a topic for salons or the speeches of Social Democratic politicians, "constitutional patriotism" may become an amplifier for ethnic-cultural nationalism.

As Demirovic has pointed out, socialism involves issues of both differentiation and de-differentiation.[55] Indeed, the control exerted by the state over the irrationalities of a freely running law of value — and hence a *de-differentiation* of the basic liberal separation of state and society must remain in view. To the extent that civil societarians tend to rhetorically defend a "modernity" characterized by a unidirectional "differentiation" of society, they blur the distinctions between liberal and republican ideas. This does not mean that they have no relevance, above and beyond their success at spreading this term around the globe. The ability of Rödel, et al. to ignite the recent German "*Zivilgesellschaft*" debate lies in the way they pose the question of democracy and the problems of the German Left. As a radical democrat, Rödel tends to expunge the "life-world" of the cumbersome Kantian baggage of Habermas' *Theory of*

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vague concept of the "German mob." Instead of the plutonium industry, the locus became "Germans" in general. The problem with the "civil society" approach is that it does not have the categories necessary to grasp such developments because it does not look at the institutional dynamics of movement formation and organization, even if it had not already excluded such radical movements as "irrational."

53. Janina Paradowska, "The Three Cards Game: An Interview with Adam Michnik," in *Telos* 89 (Fall 1991), pp. 95-101.

54. Joachim Hirsch, "Internationalismus und Neue Linke," in *diskus*, Vol. 41, No. 3 (July, 1992).

55. Demirovic, *op. cit.*, p. 53.

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Communicative Action and to *re-institutionalize* it, to make it a lived-space of appearance to coincide with "civil society" as the place of communication, friendship and "solidarity" over against the system imperatives of accumulation and bureaucratic steering. In this manner, civil societarians attempt to radicalize Habermas (and are apparently succeeding in doing so) and become implicit advocates of a "dedifferentiation" seeking to colonize the system with an institutionally articulated life-world. In this sense of a "normative" ideal, "civil society" turns into an anarchist proposal. Their notion of the "life-world" draws on a *phenomenology* of the institutions of democracy — an idea characteristic of the radical democratic tradition and its recognition of "constraints" within which which political life is defined and contained. Civil societarians thus enter the terrain traditionally occupied by radical republicanism, i.e., public or political life — a space between bureaucratic domination (or statecraft) and the destructive fury of the commodity nexus.[56] From Aristotle to Arendt, Castoriadis and Bookchin, this *ethos*-oriented concept of public life, rooted in political freedom and in the day-to-day practices of sharing in government, remains the center of their thinking.

It was Arendt's genius to recognize the uncompromisingly radical position possible here without threatening liberal and social democracy, and without subjecting oneself to its own categories. Dealing with such issues and developing a red-green project is addressed by the Institute for Social Research group who posed the "democratic question"; a republican influence in Germany is pressing, and red-green politics as a cooperative dialectic between movements with radical republican ideas and those advocating "self-rationalizing" constitutional reforms is equally important. However, this dialogue between neo-Kantian Social Democracy and a Green or social movement republicanism must fit the two perspectives without conflating or confusing them — especially without reducing the latter to the former.

John Ely

56. Cf. Arendt, *The Human Condition*, *op. cit.*, Chapter II; Castoriadis, "Die griechische *Polis* und die Schaffung der Demokratie," in Rödel, et al., *Autonome Gesellschaft*, *op. cit.*, pp. 298ff.; Murray Bookchin, *Urbanization and the Decline of Citizenship* (San Francisco: Sierra Club Books, 1988).

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